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Index - Digest
System

Supplement 1
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Estate & Gift Tax

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of the
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Revenue
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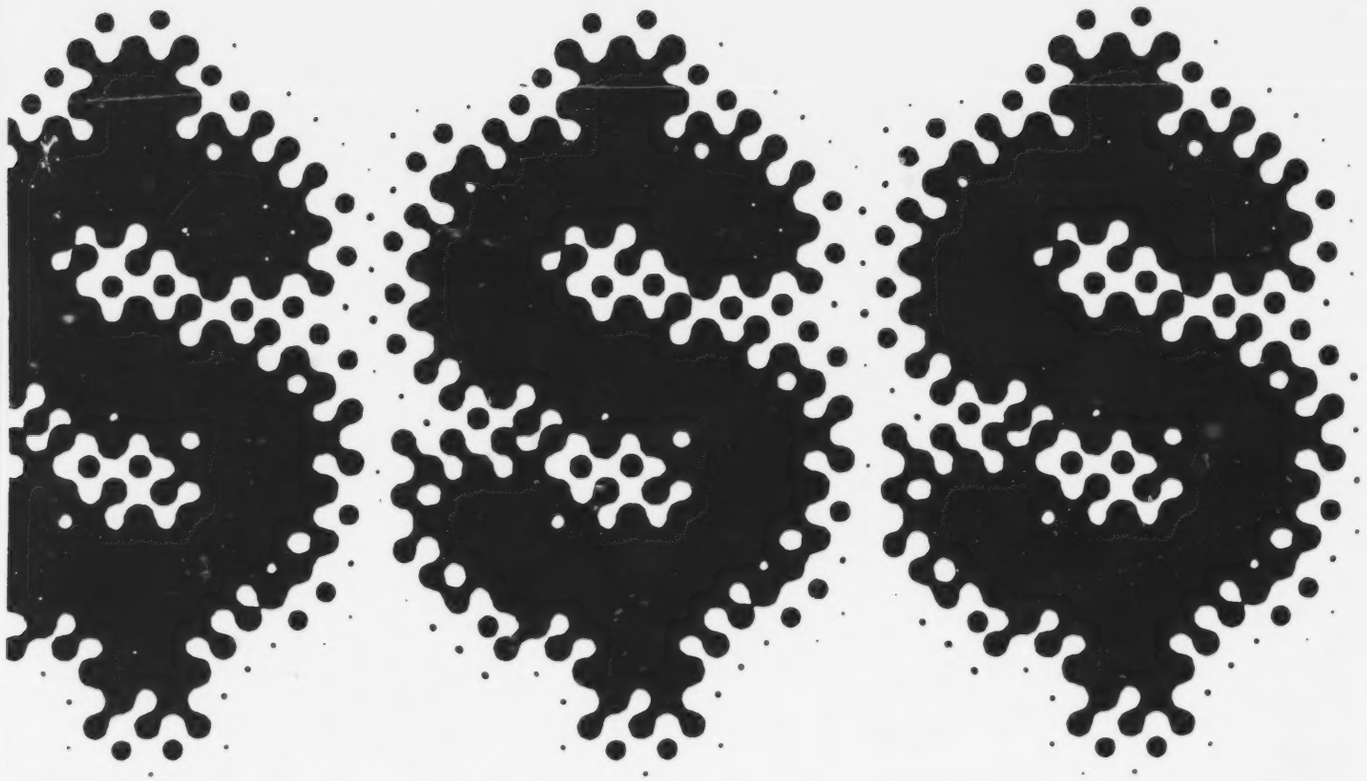
Publication 642



Finding Lists for Revenue Rulings, Revenue Procedures and other Items except Public Laws, Treasury Decisions, and Tax Conventions

Internal Revenue Code of 1954

Sec. 2001
Rev. Rul. 81-85, 60.3

Sec. 2013
§20.2013-4
Rev. Rul. 81-118, 118.1

Sec. 2031
§20.2031-10
Rev. Rul. 81-118, 172.1

Sec. 2032
§20.2032-1
Rev. Rul 81-118, 172.1

Sec. 2032A
Rev. Rul. 81-146, 174.3
§20.2032A-4
Rev. Rul. 81-170, 174.2
§20.2032A-8
Rev. Proc. 81-14, 174.1

Sec. 2033
§20.2033-1
Rev. Rul. 81-63, 140.2

Sec. 2035
Rev. Rul. 81-14, 168.1
Rev. Rul. 81-85, 168.5

Sec. 2036
§20.2036-1
Rev. Rul. 81-15, 160.2
Rev. Rul. 81-51, 168.3
Rev. Rul. 81-164, 168.4
Rev. Rul. 81-166, 134.1

Sec. 2038
§20.2038-1
Rev. Rul. 81-51, 168.3

Sec. 2040
Rev. Rul. 81-146, 140.1

Sec. 2042
Acq. in result, 73 T.C. 307, 142.3
§20.2042-1
Rev. Rul. 81-128, 142.2

Sec. 2053
§20.2053-3
Rev. Rul. 81-154, 102.1

Sec. 2055
§20.2055-2
Rev. Rul. 81-20, 112.1

Sec. 2056
§20.2056(b)-4
Rev. Rul. 81-165, 146.1

Sec. 2501
§25.2501-1
Rev. Rul. 81-54, 222.4
Rev. Rul. 81-166, 222.2

Sec. 2503
§25.2503-2
Rev. Rul. 81-31, 218.1
§25.2503-3
Rev. Rul. 81-7, 218.2

Sec. 2511
§25.2511-1
Rev. Rul. 81-31, 250.1
Rev. Rul. 81-54, 250.3
Rev. Rul. 81-166, 222.2
§25.2511-2
Rev. Rul. 81-110, 250.2
Rev. Rul. 81-166, 222.2

Sec. 2512
§25.2512-1
Rev. Rul. 81-31, 238.1
Rev. Rul. 81-166, 222.2
§25.2512-8
Rev. Rul. 81-54, 250.3
§25.2512-9
Rev. Rul. 81-166, 222.2

Sec. 2513
§25.2513-1
Rev. Rul. 81-85, 224.1

Sec. 2522
§25.2522(a)-1
Rev. Rul. 81-110, 204.1

Sec. 6402
§301.6402-2
Rev. Proc. 81-18, 60.1

Sec. 6601
§301.6601-1
Rev. Rule. 81-154, 102.1

Sec. 6651
§301.6651-1
Rev. Rul. 81-154, 102.1

Sec. 7805
§301.7805-1
Rev. Rul. 81-51, 168.3

Statement of Procedural Rules

601.105
Rev. Proc. 81-14, 26.1
Rev. Proc. 81-17, 64.1
Rev. Proc. 81-18, 60.1

601.201
Rev. Proc. 81-10, 66.1

Decisions of the Tax Court

Smith, John
73 T.C. 307, Acq. in result, 142.3

Miscellaneous Items Published in the Internal Revenue Bulletin

Del. Order 67 (Rev. 15), 2.2
Del. Order 165 (Rev. 3), 2.2
Treas. Dept. Order 111-2, 2.1

Listing of Revenue Rulings and Revenue Procedures

Revenue Procedures
Rev. Proc. 81-10, 66.1
Rev. Proc. 81-14, 26.1
Rev. Proc. 81-17, 10.1
Rev. Proc. 81-18, 60.1

Revenue Rulings
Rev. Rul. 81-7, 218.2
Rev. Rul. 81-14, 168.1
Rev. Rul. 81-15, 168.2
Rev. Rul. 81-20, 112.1
Rev. Rul. 81-31, 238.1
Rev. Rul. 81-51, 168.3
Rev. Rul. 81-54, 250.3
Rev. Rul. 81-63, 134.2
Rev. Rul. 81-85, 60.3
Rev. Rul. 81-110, 222.3
Rev. Rul. 81-118, 118.1
Rev. Rul. 81-128, 142.2
Rev. Rul. 81-146, 174.3
Rev. Rul. 81-154, 102.1
Rev. Rul. 81-164, 168.4
Rev. Rul. 81-165, 146.1
Rev. Rul. 81-166, 134.1
Rev. Rul. 81-170, 174.2

Actions on Previously Published Revenue Rulings and Revenue Procedures

Revenue Procedures
80-82
Superseded by
Rev. Proc. 81-10, 1981-13 I.R.B. 44

Revenue Rulings
67-54
Revoked by
Rev. Rul. 81-15, 1981-2 I.R.B. 26
79-353
Modified by
Rev. Rul. 81-51, 1981-7 I.R.B. 14
80-179
Superseded by
Rev. Rul. 81-170, 1981-25 I.R.B. 18

Finding Lists for Public Laws and Treasury Decisions

Internal Revenue Code of 1954

Sec. 2039

§20.2039-2
T.D. 7761, 1981-15 I.R.B. 19

§20.2039-3
T.D. 7761, 1981-15 I.R.B. 19

§20.2039-4
T.D. 7761, 1981-15 I.R.B. 19

§20.2039-5
T.D. 7761, 1981-15 I.R.B. 19

Sec. 2055
Pub.L. 96-605, 1981-6 I.R.B. 21

Sec. 2514

§25.2514-1
T.D. 7757, 1981-15 I.R.B. 28

§25.2514-3
T.D. 7776, 1981-24 I.R.B. 11

Sec. 2517

§25.2517-1
T.D. 7761, 1981-15 I.R.B. 19

Sec. 2621

§26a.2621-1
T.D. 7769, 1981-14 I.R.B. 15

Sec. 6075

§25.6075-1
T.D. 7757, 1981-15 I.R.B. 28

Sec. 6103
Pub.L. 96-598, 1981-5 I.R.B. 26

§301.6103(l)(2)-3
T.D. 7757, 1981-15 I.R.B. 28

Sec. 6155
Pub.L. 96-589, 1981-3 I.R.B. 16

Sec. 6161
Pub.L. 96-589, 1981-3 I.R.B. 16

Sec. 6212
Pub.L. 96-589, 1981-3 I.R.B. 16

Sec. 6213
Pub.L. 96-589, 1981-3 I.R.B. 16

Sec. 6503
Pub.L. 96-589, 1981-3 I.R.B. 16

Sec. 6532
Pub.L. 96-589, 1981-3 I.R.B. 16

Sec. 6658
Pub.L. 96-589, 1981-3 I.R.B. 16

Sec. 6871
Pub.L. 96-589, 1981-3 I.R.B. 16

Sec. 7508
Pub.L. 96-589, 1981-3 I.R.B. 16

Sec. 7517

§301.7517-1
T.D. 7757, 1981-15 I.R.B. 28

Statement of Procedural Rules

601.102
1981-23 I.R.B. 15

601.103
1981-23 I.R.B. 15

601.105
1981-23 I.R.B. 15

601.106
1981-23 I.R.B. 15

601.201
1981-23 I.R.B. 15

601.203
1981-23 I.R.B. 15

601.506
1981-23 I.R.B. 15

601.602
1981-23 I.R.B. 15

Public Laws Published in the Bulletin

96-589 (H.R. 8200) 1981-3 I.R.B. 16
(Bankruptcy Tax Act of 1980)
S. Rept. 1035, 1981-3 I.R.B. 28

96-598 (H.R. 3317), 1981-5 I.R.B. 26
S. Rept. 96-898, 1981-5 I.R.B. 27

96-605 (H.R. 7956), 1981-6 I.R.B. 21
(Miscellaneous Revenue Act of 1980)
H. Rept. 96-1278, 1981-6 I.R.B. 28
S. Rept. 96-1036, 1981-6 I.R.B. 41

Digests of Revenue Rulings, Revenue Procedures, and other published items except Public Laws, Treasury Decisions, and Tax Conventions

ADMINISTRATIVE

Administration

2.1 Assistant Secretary (Tax Policy); final determination. The authority to make final determinations on issues of tax policy is delegated to the Assistant Secretary (Tax Policy). Treas. Dept. Orders 150-41 and 170-3 superseded.

Treas. Dept. Order No. 111-2, 1981-21, I.R.B. 18.

2.2 Delegations of authority. The following documents deal with delegations of authority with respect to the Service:

Del. Order—Citation—Subject

67 (Rev. 15), 1981-18 I.R.B. 10, Signing for Acting Commissioner.

165 (Rev. 3), 1981-20 I.R.B. 9, Appeals; Freedom of Information Act.

Bankruptcy and receiverships

10.1 Examination of returns. Procedures are provided for the trustee (or debtor in possession) to obtain a prompt determination by the Service of any unpaid tax liability of the bankruptcy estate incurred during the administration of the estate. (Sec. 601.105, S.P.R.)

Rev. Proc. 81-17, 1981-20 I.R.B. 9.

10.2 Refunds and credits. A procedure is provided for the trustee (or debtor in possession) representing the bankruptcy estate to file a claim for credit or refund for any overpayment of tax. §301.6402-2. (Sec. 601.105, S.P.R.; Sec. 6402, '54 Code.)

Rev. Proc. 81-18, 1981-20 I.R.B. 10.

Elections

26.1 Written agreement; valuation of property. Guidelines are provided for the filing of a written agreement executed by all parties who have any interest in property that is being valued at its value as a farm or closely held business rather than at its fair market value. §20.2032A-8. (Sec. 601.105, S.P.R.; Sec. 2032A, '54 Code.)

Rev. Proc. 81-14, 1981-17 I.R.B. 14.

Refunds and credits

60.1 Bankruptcy estate. A procedure is provided for the trustee (or debtor in possession) representing the bankruptcy estate to file a claim for credit or refund for any overpayment of tax. §301.6402-2. (Sec. 601.105, S.P.R.; Sec. 6402, '54 Code.)

Rev. Proc. 81-18, 1981-20 I.R.B. 10.

60.2 Overpayment exceeding $200,000 offset by merger partner's deficiency. A merged corporation's deficiency for a tax year before the merger may not offset an overpayment of its merger partner for a premerger tax year to determine whether a refund report must be made to the Joint Committee on Taxation. §301.6405-1. (Sec. 6405, '54 Code.)

Rev. Rul. 81-77, 1981-10 I.R.B. 36.

60.3 Split gift made within 3 years of spouses deaths. If a decedent's spouse dies after the decedent, and a gift that the decedent consented to split is includible in the spouse's estate, the decedent's estate is entitled to recompute its tax. §25.2513-1. (Secs. 2001, 2035, 2512; '54 Code.)

Rev. Rul. 81-85, 1981-11 I.R.B. 44.

Returns

64.1 Examination; bankruptcy estates. Procedures are provided for the trustee (or debtor in possession) to obtain a prompt determination by the Service of any unpaid tax liability of the bankruptcy estate incurred during the administration of the estate. (Sec. 601.105, S.P.R.)

Rev. Proc. 81-17, 1981-20 I.R.B. 9.

Rulings

66.1 Areas in which advance rulings will not be issued. A revised list is provided of those areas of the Code under the jurisdiction of the Assistant Commissioner (Technical) in which the Service will not issue advance rulings or determination letters. Rev. Procs. 80-22, 80-34, 80-37, 80-38, 80-41, 81-1, 81-4, 81-5, and 81-8 superseded. (Sec. 601.201, S.P.R.)

Rev. Proc. 81-10, 1981-13 I.R.B. 44.

ESTATE TAX

Administration expenses

102.1 Failure to file and pay penalties; interest. The failure to file and pay penalties are not deductible as administration expenses under section 2053 even if allowable under local law. The interest on a federal estate tax liability is a deductible administration expense to the extent allowable under local law regardless of the reason incurred. §§20.2053-3, 301.6601-1, 301.6651-1. (Secs. 2053, 6601, 6651; '54 Code.)

Rev. Rul. 81-154, 1981-22 I.R.B. 8.

Charitable, etc., transfers

112.1 Residuary interest; executor's discretion. A decedent's will provides for a legacy of specific dollar value to the decedent's adult child and for distribution of the estate's residue to a qualified charitable organization. The executor has absolute power to satisfy the legacy in cash, in property valued at fair market value on the date of distribution, or a combination of both, and to select the date for distribution of the estate's assets. Applicable state law requires the executor to act impartially with respect to the beneficiaries. A deduction is allowable under section 2055 for the bequest of the residue. §20.2055-2. (Sec. 2055, '54 Code.)

Rev. Rul. 81-20, 1981-3 I.R.B. 11.

Credits against tax

118.1 Prior transfers; valuation; alternate. The executor of an estate elected alternate valuation. For purposes of calculating the credit for tax on prior transfers, the value of a life estate is based on the appropriate factor for the transferee's age on the date of the transferor's death, and the value of the trust's corpus is determined on the alternate valuation date. §§20.2013-4, 20.2031-10, 20.2032-1. (Secs. 2013, 2031, 2032; '54 Code.)

Rev. Rul. 81-118, 1981-15 I.R.B. 18.

Gross estate

134.1 Life insurance proceeds; paid to trust; policy owner to receive trust income for life. An individual purchased and owned a life insurance policy on another's life and designated the trustee of a revocable trust created by the insured as beneficiary. When the insured dies and the policy proceeds become payable to the trustee, the individual, who will receive the income of the trust for life, will have made a completed gift. Further, if the individual does not relinquish the life interest in the trust, the portion of the trust corpus attributable to the individual's contribution of the policy proceeds will be includible in the individual's gross estate at death. §§20.2036-1, 25.2501-1, 25.2511-1, 25.2511-2, 25.2512-9. (Secs. 2036, 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-166, 1981-24 I.R.B. 10.

134.2 State public housing agency bonds. Bonds that are issued by a state public housing agency for a low-income housing project are included in the gross estate of the deceased owner of the bonds, even though the U.S. Housing Act of 1937 exempts them from all taxation. §20.2033-1. (Secs. 1001, 2033; '54 Code.)

Rev. Rul. 81-63, 1981-8 I.R.B. 53.

134.3 Transfers to irrevocable funded life insurance trust. The decedent obtained a life insurance policy, the proceeds of which were payable to the decedent's estate to the extent of the policy's cash surrender value, less any outstanding indebtedness. The balance of the proceeds was payable to the trustee of an irrevocable funded insurance trust that was created by the decedent and owned the policy and paid that portion of the annual premium that exceeded the annual increase in the cash surrender value. The decedent transferred funds to the trustee to enable the trustee to pay the trust portion of the premium. The balance the funds initially deposited that remained in the trust at the time of the decedent's death is not includible in the gross estate under section 2036. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-164, 1981-24 I.R.B. 8.

Husband and wife

136.1 Split gifts; deaths of spouses within three years of gift. If a decedent's spouse dies after the decedent, and a gift that the decedent consented to split is includible in the spouse's estate, the decedent's estate is entitled to recompute its tax. §25.2513-1. (Secs. 2001, 2035, 2512; '54 Code.)

Rev. Rul. 81-85, 1981-11 I.R.B. 44.

Interests in property

140.1 Farm; special use value and eligible joint interest elections. The portion of an eligible joint interest includible in a decedent's gross estate under section 2040(c) is computed using the fair market value as the "value of such interest" under section 2040(c)(1)(A) even though the estate has elected the special use valuation for the interest under section 2032A. (Secs. 2040, 2032A; '54 Code.)

Rev. Rul. 81-146, 1981-20 I.R.B. 5.

140.2 State public housing agency bonds. Bonds that are issued by a state public housing agency for a low-income housing project are included in the gross estate of the deceased owner of the bonds, even though the U.S. Housing Act of 1937 exempts them from all taxation. §20.2033-1. (Secs. 1001, 2033; '54 Code.)

Rev. Rul. 81-63, 1981-8 I.R.B. 53.

Life insurance

142.1 Proceeds; paid to trust; policy owner to receive trust income for life. An individual purchased and owned a life insurance policy on another's life and designated the trustee of a revo-

cable trust created by the insured as beneficiary. When the insured dies and the policy proceeds become payable to the trustee, the individual, who will receive the income of the trust for life, will have made a completed gift. Further, if the individual does not relinquish the life interest in the trust, the portion of the trust corpus attributable to the individual's contribution of the policy proceeds will be includible in the individual's gross estate at death. §§20.2036-1, 25.2501-1, 25.2511-1, 25.2511-2, 25.2512-9. (Secs. 2036, 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-166, 1981-24 I.R.B. 10.

142.2 Proceeds; power of insured to exercise incidents of ownership. The Service will not follow the *Connelly* decision that held the decedent's right under an employer-funded noncontributory group life insurance policy to select optional settlement modes in conjunction with the employer and insurer was not an incident of ownership within the meaning of section 2042. §20.2042-1. (Sec. 2042, '54 Code.)

Rev. Rul. 81-128, 1981-17 I.R.B. 7.

142.3 Proceeds; rights under employment agreement. Under an employment agreement, if the employer, the owner and beneficiary of two life insurance policies on a decedent's life, elected not to pay the premiums or to surrender and terminate the policies the decedent had a right to take an assignment of the policies in exchange for their cash value. *Held,* decedent's rights at death are not incidents of ownership under section 2042 and the proceeds of the policies are not includable in the gross estate. (Sec. 2042, '54 Code.)

John Smith, 73 T.C. 307, Acq. in result, 1981-13 I.R.B. 5.

142.4 Transfer within 3 years of death; insured predeceased decedent. The proceeds of an insurance policy on the life of another are includible in a decedent's gross estate if the decedent assigns that policy within three years of death and the insured predeceases the decedent. (Sec. 2035, '54 Code.)

Rev. Rul. 81-14, 1981-2 I.R.B. 26.

Marital deduction

146.1 Taxes; apportionate; Virginia; after 1979. For decedents dying after December 31, 1979, the marital deduction allowable under section 2056 with respect to property passing to the surviving spouse of a deceased resident of Virginia, whose will contained no provision directing the payment of federal estate tax or Virginia estate tax, is not reduced by the amount of Virginia estate tax due with respect to the estate. §20.2056(b)-4. (Sec. 2056, '54 Code.)

Rev. Rul. 81-165, 1981-24 I.R.B. 9.

Securities

160.1 State public housing agency bonds. Bonds that are issued by a state public housing agency for a low-income housing project are included in the gross estate of the deceased owner of the bonds, even though the U.S. Housing Act of 1937 exempts them from all taxation. §20.2033-1. (Secs. 1001, 2033; '54 Code.)

Rev. Rul. 81-63, 1981-8 I.R.B. 53.

160.2 Stock transferred in trust; retained power. Prior to death, a taxpayer transferred nonvoting closely held corporate stock to a trust, retained the voting stock of the corporation, and retained control over the disposition of the nonvoting stock. The taxpayer did not retain the right to determine the income from the nonvoting stock or the persons who would enjoy the income therefrom, and the value of the nonvoting stock is not includible in the gross estate of the decedent. Rev. Rul. 67-54 revoked. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-15, 1981-2 I.R.B. 26.

Transfers

168.1 Life insurance; within 3 years of death; insured predeceased. The proceeds of an insurance policy on the life of another are includible in a decedent's gross estate if the decedent assigns that policy within three years of death and the insured predeceases the decedent. (Sec. 2035, '54 Code.)

Rev. Rul. 81-14, 1981-2 I.R.B. 26.

168.2 Stock transferred in trust; retained power. Prior to death, a taxpayer transferred nonvoting closely held corporate stock to a trust, retained the voting stock of the corporation, and retained control over the disposition of the nonvoting stock. The taxpayer did not retain the right to determine the income from the nonvoting stock or the persons who would enjoy the income therefrom, and the value of the nonvoting stock is not includible in the gross estate of the decedent. Rev. Rul. 67-54 revoked. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-15, 1981-2 I.R.B. 26.

168.3 Trust; contingent power to appoint successor trustee. Rev. Rul. 79-353, which holds that the value of property transferred to a trust is includible in the decedent-grantor's gross estate under sections 2036(a)(2) and 2038(a)(1) if the grantor retains the power to replace the trustee, will not be applied to a transfer or to an addition to a trust made before October 29, 1979, if the trust was irrevocable on October 28, 1979. Rev. Rul. 79-353 modified. §§20.2036-1, 20.2038-1, 301.7805-1. (Secs. 2036, 2038, 7805; '54 Code.)

Rev. Rul. 81-51, 1981-7 I.R.B. 14.

168.4 Trust; funded life insurance; balance at death. The decedent obtained a life insurance policy, the proceeds of which were payable to the decedent's estate to the extent of the policy's cash surrender value, less any outstanding indebtedness. The balance of the proceeds was payable to the trustee of an irrevocable funded insurance trust that was created by the decedent and owned the policy and paid that portion of the annual premium that exceeded the annual increase in the cash surrender value. The decedent transferred funds to the trust to enable the trustee to pay the trust portion of the premium. The balance of the funds initially deposited that remained in the trust at the time of the decedent's death is not includible in the gross estate under section 2036. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-164, 1981-24 I.R.B. 8.

168.5 Within 3 years of death; split gift. If a decedent's spouse dies after the decedent, and a gift that the decedent consented to split is includible in the spouse's estate, the decedent's estate is entitled to recompute its tax. §25.2513-1. (Secs. 2001, 2035, 2512; '54 Code.)

Rev. Rul. 81-85, 1981-11 I.R.B. 44.

Trusts

170.1 Transfers; contingent power to appoint successor trustee. Rev. Rul. 79-353, which holds that the value of property transferred to a trust is includible in the decedent-grantor's gross estate under sections 2036(a)(2) and 2038(a)(1) if the grantor retains the power to replace the trustee, will not be applied to a transfer or to an addition to a trust made before October 29, 1979, if the trust was irrevocable on October 28, 1979. Rev. Rul. 79-353 modified. §§20.2036-1, 20.2038-1, 301.7805-1. (Secs. 2036, 2038, 7805; '54 Code.)

Rev. Rul. 81-51, 1981-7 I.R.B. 14.

Valuation

Alternate

172.1 Life estate; credit for tax on prior transfers. The executor of an estate elected alternate valuation. For purposes of calculating the credit for tax on prior transfers, the value of a life estate is based on the appropriate factor for the transferee's age on the date of the transferor's death, and the value of the trust's corpus is determined on the alternate valuation date. §§20.2013-4, 20.2031-10, 20.2032-1. (Secs. 2013, 2031, 2032; '54 Code.)

Rev. Rul. 81-118, 1981-15 I.R.B. 18.

Valuation

Farms and closely-held businesses

174.1 Election; written agreement. Guidelines are provided for the filing of a written agreement executed by all parties who have any interest in property that is being valued at its value as a farm or closely-held business rather than at its fair market value. §20.2032A-8. (Sec. 601.105, S.P.R.; Sec. 2032A, '54 Code.)

Rev. Proc. 81-14, 1981-17 I.R.B. 14.

174.2 Farms; special use value; interest rates. The interest rates to be used in computing the special use value of farm real property for which an election is made under section 2032A are listed for estates of decedents dying in the period 1977-1981. An example illustrates how the annual interest rates are calculated. Rev. Rul. 80-179 superseded. §20.2032A-4. (Sec. 2032A, '54 Code.)

Rev. Rul. 81-170, 1981-25 I.R.B. 18.

174.3 Farms; special use value and eligible joint interest elections. The portion of an eligible joint interest includible in a decedent's gross estate under section 2040(c) is computed using the fair market value as the "value of such interest" under section 2040(c)(1)(A) even though the estate has elected the special use valuation for the interest under section 2032A. (Secs. 2040, 2032A, '54 Code.)

Rev. Rul. 81-146, 1981-20 I.R.B. 5.

GIFT TAX

Charitable, etc., transfers

204.1 Pledge of donor honored by third party. An individual made a binding pledge to a charitable organization that was honored by a third party. The individual is considered to have made a gift to the charity at the time the pledge became enforceable, and the third party made a gift to the individual at the time the pledge was honored. The individual is entitled to a charitable gift deduction, but the third party is not. §§25.2511-2, 25.2522(a)-1 (Secs. 2511, 2522; '54 Code.)

Rev. Rul. 81-110, 1981-14 I.R.B. 14.

Exclusions

218.1 Death benefit. An employee entered into an employment contract in which the employer agreed to pay a death benefit of twice the annual salary at the time of death to the employee's surviving spouse, but only if the employee was still employed at the time of death. The death benefit was not funded. The employee made a gift of a present interest in the quarter in which death occurred—the time when the value of the death benefit became ascertainable—and the gift qualifies for the annual exclusion allowable under section 2503(b). §§25.2503-2, 25.2511-1, 25.2512-1. (Secs. 2503, 2511, 2512; '54 Code.)

Rev. Rul. 81-31, 1981-4 I.R.B. 30.

218.2 Trust; power to demand corpus; present v. future interest. A trust provision that

gives a legally competent adult beneficiary the power to demand corpus does not qualify a transfer to the trust as a present interest eligible for the gift tax annual exclusion, if due to the donor's conduct, the beneficiary lacks knowledge of the power and does not have a reasonable opportunity to exercise it before it lapses. §25.2503-3. (Sec. 2503, '54 Code.)

Rev. Rul. 81-7, 1981-1 I.R.B. 27.

Gifts

222.1 Death benefit. An employee entered into an employment contract in which the employer agreed to pay a death benefit of twice the annual salary at the time of death to the employee's surviving spouse, but only if the employee was still employed at the time of death. The death benefit was not funded. The employee made a gift of a present interest in the quarter in which death occurred—the time when the value of the death benefit became ascertainable—and the gift qualifies for the annual exclusion allowable under section 2503(b). §§25.2503-2, 25.2511-1, 25.2512-1. (Secs. 2503, 2511, 2512; '54 Code.)

Rev. Rul. 81-31, 1981-4 I.R.B. 30.

222.2 Life insurance proceeds; transferred to trust created by insured; policy owned by trust beneficiary. An individual purchased and owned a life insurance policy on another's life and designated the trustee of a revocable trust created by the insured as beneficiary. When the insured dies and the policy proceeds become payable to the trustee, the individual, who will receive the income of the trust for life, will have made a completed gift. Further, if the individual does not relinquish the life interest in the trust, the portion of the trust corpus attributable to the individual's contribution of the policy proceeds will be includible in the individual's gross estate at death. §§20.2036-1, 25.2501-1, 25.2511-1, 25.2511-2, 25.2512-9. (Secs. 2036, 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-166, 1981-24 I.R.B. 10.

222.3 Pledge of donor honored by third party. An individual made a binding pledge to a charitable organization that was honored by a third party. The individual is considered to have made a gift to the charity at the time the pledge became enforceable, and the third party made a gift to the individual at the time the pledge was honored. The individual is entitled to a charitable gift deduction, but the third party is not. §§25.2511-2, 25.2522(a)-1. (Secs. 2511, 2522; '54 Code.)

Rev. Rul. 81-110, 1981-14 I.R.B. 14.

222.4 Transfer in trust; stock of DISC and continued contractural relationship. The tax consequences are discussed of (1) a gift by the shareholders of a manufacturing corporation of stock in a newly formed DISC to trusts for the benefit of their children and (2) a continued contractural relationship between their corporations, pursuant to which sales commissions are paid to the DISC in exchange for no significant services. §§25.2501-1, 25.2511-1, 25.2512-8. (Secs. 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-54, 1981-7 I.R.B. 15.

Husband and wife

224.1 Split gifts; deaths of spouses within 3 years of gift. If a decedent's spouse dies after the decedent, and a gift that the decedent consented to split is includible in the spouse's estate, the decedent's estate is entitled to recompute its tax. §25.2513-1. (Secs. 2001, 2035, 2512; '54 Code.)

Rev. Rul. 81-85, 1981-11 I.R.B. 44.

Life Insurance

228.1 Proceeds; transferred to trust; policy owned by trust beneficiary. An individual purchased and owned a life insurance policy on another's life and designated the trustee of a revocable trust created by the insured as beneficiary. When the insured dies and the policy proceeds become payable to the trustee, the individual, who will receive the income of the trust for life, will have made a completed gift. Further, if the individual does not relinquish the life interest in the trust, the portion of the trust corpus attributable to the individual's contribution of the policy proceeds will be includible in the individual's gross estate at death. §§20.2036-1, 25.2501-2, 25.2511-1, 25.2511-2, 25.2512-9. (Secs. 2036, 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-166, 1981-24 I.R.B. 10.

Property

Interests

238.1 Present; death benefit. An employee entered into an employment contract in which the employer agreed to pay a death benefit of twice the annual salary at the time of death to the employee's surviving spouse, but only if the employee was still employed at the time of death. The death benefit was not funded. The employee made a gift of a present interest in the quarter in which death occurred—the time when the value of the death benefit became ascertainable—and the gift qualifies for the annual exclusion allowable under section 2503(b). §§25.2503-2, 25.2511-1, 25.2512-1. (Secs. 2503, 2511, 2512; '54 Code.)

Rev. Rul. 81-31, 1981-4 I.R.B. 30.

238.2 Present v. future; power to demand trust corpus. A trust provision that gives a legally competent adult beneficiary the power to demand corpus does not qualify a transfer to the trust as a present interest eligible for the gift tax annual exclusion, if due to the donor's conduct, the beneficiary lacks knowledge of the power and does not

have a reasonable opportunity to exercise it before it lapses. §25.2503-3. (Sec. 2503, '54 Code.)

Rev. Rul. 81-7, 1981-1 I.R.B. 27.

Transfers

250.1 Completed gift; death benefit. An employee entered into an employment contract in which the employer agreed to pay a death benefit of twice the annual salary at the time of death to the employee's surviving spouse, but only if the employee was still employed at the time of death. The death benefit was not funded. The employee made a gift of a present interest in the quarter in which death occurred—the time when the value of the death benefit became ascertainable—and the gift qualifies for the annual exclusion allowable under section 2503(b). §§25.2503-2, 25.2511-1, 25.2512-1. (Secs. 2503, 2511, 2512; '54 Code.)

Rev. Rul. 81-31, 1981-4 I.R.B. 30.

250.2 Pledge of donor honored by third party. An individual made a binding pledge to a charitable organization that was honored by a third party. The individual is considered to have made a gift to the charity at the time the pledge became enforceable, and the third party made a gift to the individual at the time the pledge was honored. The individual is entitled to a charitable gift deduction, but the third party is not. §§25.2511-2, 25.2522(a)-1. (Secs. 2511, 2522; '54 Code.)

Rev. Rul. 81-110, 1981-14 I.R.B. 14.

250.3 Stock of DISC and continued contractual relationship. The tax consequences are discussed of (1) a gift by the shareholders of a manufacturing corporation of stock in a newly formed DISC to trusts for the benefit of their children and (2) a continued contractural relationship between their corporations, pursuant to which sales commissions are paid to the DISC in exchange for no significant services. §§25.2501-1, 25.2511-1, 25.2512-8. (Secs. 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-54, 1981-7 I.R.B. 15.

Trusts

252.1 Power to demand corpus; present v. future interest. A trust provision that gives a legally competent adult beneficiary the power to demand corpus does not qualify a transfer to the trust as a present interest eligible for the gift tax annual exclusion, if due to the donor's conduct, the beneficiary lacks knowledge of the power and does not have a reasonable opportunity to exercise it before it lapses. §25.2503-3. (Sec. 2503, '54 Code.)

Rev. Rul. 81-7, 1981-1 I.R.B. 27.

960 T22.25/6:953-80/supp.2
MAR 3 1982
361-544
856
Bulletin Index - Digest System
Supplement 2
January 1981-December 1981
To be used with Basic Volume 1953-1980
33
9259

Estate & Gift Tax

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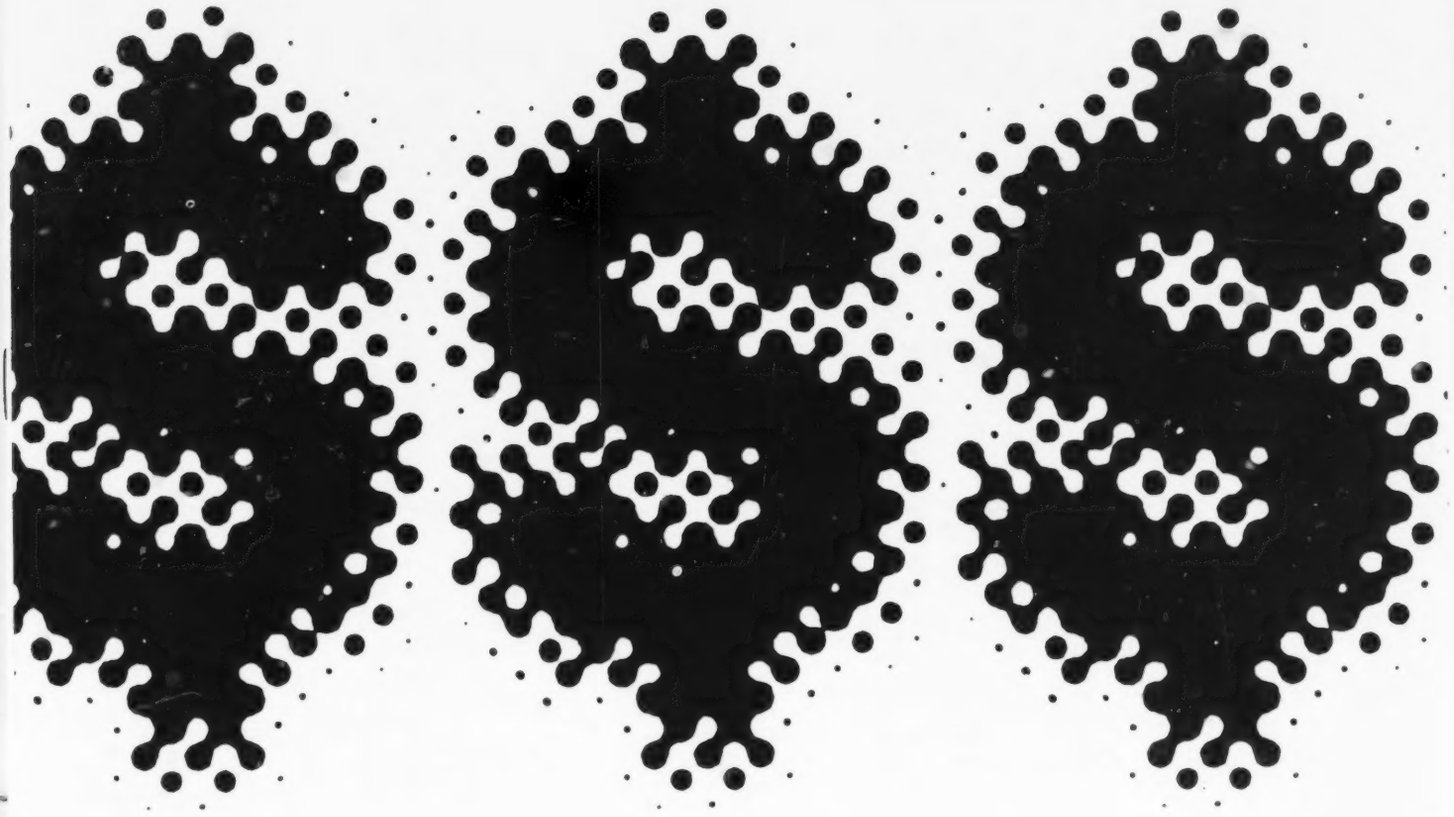

Finding Lists for Revenue Rulings, Revenue Procedures and other Items except Public Laws, Treasury Decisions, and Tax Conventions

Internal Revenue Code of 1954

Sec. 2001
Rev. Rul. 81-85, 60.6
Rev. Rul. 81-227, 134.7

Sec. 2011
Acq., 69 T.C. 942, 118.3
Acq., 69 T.C. 942, 164.1
§20.2011-1
Rev. Rul. 81-302, 164.1
Rev. Rul. 81-302, 118.3

Sec. 2013
§20.2013-4
Rev. Rul. 81-118, 118.2

Sec. 2031
§20.2031-2
Rev. Rul. 81-228, 176.1
§20.2031-10
Rev. Rul. 81-118, 172.1

Sec. 2032
§20.2032-1
Rev. Rul 81-118, 172.1

Sec. 2032A
Rev. Rul. 81-146, 174.7
Rev. Rul. 81-179, 174.8
Rev. Rul. 81-230, 174.2
Rev. Rul. 81-236, 174.9
§20.2032A-1
Rev. Rul. 81-308, 174.6
§20.2032A-3
Rev. Rul. 81-285, 174.5
§20.2032A-4
Rev. Rul. 81-170, 174.4
§20.2032A-8
Rev. Proc. 81-14, 174.1
Rev. Rul. 81-220, 174.3

Sec. 2033
Acq., 69 T.C. 942, 140.5
§20.2033-1
Rev Rul. 81-63, 140.6
Rev. Rul. 81-182, 140.7
Rev. Rul. 81-286, 134.5
Rev. Rul. 81-302, 140.5

Sec. 2035
Rev. Rul. 81-14, 168.1
Rev. Rul. 81-85, 168.7
Rev. Rul. 81-227, 168.8
Rev. Rul. 81-229, 168.5
Rev. Rul. 81-286, 168.6

Sec. 2036
§20.2036-1
Rev. Rul. 81-15, 160.2
Rev. Rul. 81-51, 168.3
Rev. Rul. 81-164, 168.4
Rev. Rul. 81-166, 134.1
Rev. Rul. 81-221, 116.1
Rev. Rul. 81-229, 170.3

Sec. 2038
§20.2038-1
Rev. Rul. 81-51, 168.3

Sec. 2039
§20.2039-1
Rev. Rul. 81-182, 106.1

Sec. 2040
Rev. Rul. 81-146, 140.2
§20.2040-1
Rev. Rul. 81-183, 140.4
Rev. Rul. 81-184, 140.3

Sec. 2042
Acq. in result, 73 T.C. 307, 142.3
§20.2042-1
Rev. Rul. 81-128, 142.2

Sec. 2043
§20.2043-1
Rev. Rul. 81-286, 168.6

Sec. 2053
Acq., 76 T.C. 369, 102.4
§20.2053-3
Rev. Proc. 81-27, 52.4
Rev. Rul. 81-154, 102.1
Rev. Rul. 81-256, 102.3
Rev. Rul. 81-287, 102.2
§20.2053-7
Rev. Rul. 81-183, 114.3
Rev. Rul. 81-184, 114.2

Sec. 2055
Acq. in result, 74 T.C. 1439, 112.3
§20.2055-2
Rev. Rul. 81-20, 112.2
Rev. Rul. 81-220, 112.1

Sec. 2056
§20.2056(b)-4
Rev. Rul. 81-165, 146.1

Sec. 2102
Rev. Rul. 81-303, 118.4

Sec. 2501
§25.2501-1
Rev. Rul. 81-54, 222.8
Rev. Rul. 81-166, 222.2

Sec. 2503
§25.2503-2
Rev. Rul. 81-31, 218.1
§25.2503-3
Rev. Rul. 81-7, 218.2

Sec. 2505
Rev. Rul. 81-223, 208.1

Sec. 2511
§25.2511-1
Rev. Rul. 81-31, 250.1
Rev. Rul. 81-54, 250.5
Rev. Rul. 81-166, 222.2
Rev. Rul. 81-198, 250.2
§25.2511-2
Rev. Rul. 81-110, 250.3
Rev. Rul. 81-166, 222.2
Rev. Rul. 81-223, 250.6
Rev. Rul. 81-264, 222.5

Sec. 2512
§25.2512-1
Rev. Rul. 81-31, 238.1
Rev. Rul. 81-166, 222.2
Rev. Rul. 81-230, 254.1
Rev. Rul. 81-253, 254.3
§25.2512-6
Rev. Rul. 81-198, 254.2
§25.2512-8
Rev. Rul. 81-54, 250.5
Rev. Rul. 81-223, 254.4
Rev. Rul. 81-286, 222.9
§25.2512-9
Rev. Rul. 81-166, 222.2

Sec. 2513
§25.2513-1
Rev. Rul. 81-85, 224.1

Sec. 2515
§25.2515-1
Rev. Rul. 81-227, 224.2

Sec. 2522
§25.2522(a)-1
Rev. Rul. 81-110, 204.1

Sec. 6075
§20.6075-1
Rev. Rul. 81-237, 64.2
§25.6075-1
Rev. Rul. 81-237, 64.2

Sec. 6081
§20.6081-1
Rev. Rul. 81-189, 28.1
Rev. Rul. 81-237, 28.5
§25.6081-1
Rev. Rul. 81-189, 28.1
Rev. Rul. 81-237, 28.5

Sec. 6151
§20.6151-1
Rev. Rul. 81-189, 28.1
Rev. Rul. 81-237, 28.5
Rev. Rul. 81-308, 52.2
§25.6151-1
Rev. Rul. 81-189, 28.1
Rev. Rul. 81-237, 28.5

Sec. 6161
§20.6161-1
Rev. Rul. 81-228, 28.4
§25.6161-1
Rev. Rul. 81-237, 28.5

Sec. 6163
§20.6163-1
Rev. Rul. 81-228, 28.4

Sec. 6166
Rev. Rul. 81-287, 28.3
§20.6166-1
Rev. Proc. 81-27, 52.4
Rev. Rul. 81 228, 28.4
Rev. Rul. 81-294, 52.3

Sec. 6166A
Rev. Rul. 81-287, 28.3
§20.6166A-1
Rev. Proc. 81-27, 52.4
Rev. Rul. 81-228, 28.4
Rev. Rul. 81-294, 52.3

Sec. 6401
§301.6401-1
Rev. Rul. 81-189, 50.2

Sec. 6402
§301.6402-1
Rev. Rul. 81-294, 60.3
§301.6402-2
Rev. Proc. 81-18, 60.1

Sec. 6403
§301.6403-1
Rev. Rul. 81-294, 60.3

Sec. 6501
Rev. Rul. 81-287, 44.2

Sec. 6511
§301.6511(a)-1
Rev. Rui. 81-263, 44.1
Rev. Rul. 81-263, 118.1

Sec. 6601
§301.6601-1
Rev. Rule. 81-154, 102.1
Rev. Rul. 81-308, 24.2

Sec. 6611
§301.6611-1
Rev. Rul. 81-189, 60.5

Sec. 6621
§301.6621-1
Rev. Rul. 81-260, 24.1

Sec. 6651
§301.6651-1
Rev. Rul. 81-154, 102.1
Rev. Rul. 81-237, 54.1

Sec. 7605
§301.7605-1
Rev. Proc. 81 35, 64.3

Sec. 7805
§301.7805-1
Rev. Rul. 81-51, 168.3

Statement of Procedural Rules

601.105
Rev. Proc. 81-14, 26.1
Rev. Proc. 81-17, 64.1
Rev. Proc. 81-18, 60.1
Rev. Proc. 81-27, 52.4
Rev. Proc. 81-33, 66.3
Rev. Proc. 81-35, 64.3
Rev. Proc. 81-46, 14.1
601.201
Rev. Proc. 81-10, 66.1
Rev. Proc. 81-33, 66.3
Rev. Proc. 81-37, 66.2
601.502
Rev. Proc. 81-38, 8.1
601.602
Rev. Proc. 81-47, 30.1

Decisions of the Tax Court

Crafts, Nancy F.
74 T.C. 1439, Acq. in result, 112.3
Gamble, George E.P.
69 T.C. 942, Acq., 140.5
Reilly, Peter W.
76 T.C. 369, Acq., 102.4
Smith, John
73 T.C. 307, Acq. in result, 142.3

Revenue Rulings and Revenue Procedures under Tax Conventions

Australia
Rev. Rul. 81-303, 166.1
Finland
Rev. Rul. 81-303, 166.2
Greece
Rev. Rul. 81-303, 166.3
Italy
Rev. Rul. 81-303, 166.4
Japan
Rev. Rul. 81-303, 166.5
Norway
Rev. Rul. 81-303, 166.6
Switzerland
Rev. Rul. 81-303, 166.7

Miscellaneous Items Published in the Internal Revenue Bulletin

Del. Order 4 (Rev. 12), 2.2
Del. Order 67 (Rev. 15), 2.2
Del. Order 156 (Rev. 1), Amend. 2, 2.2
Del. Order 165 (Rev. 3), 2.2
Treas. Dept. Order 111-2, 2.1
Treas. Dept. Order 150-93, 2.3

Listing of Revenue Rulings and Revenue Procedures

Revenue Procedures
Rev. Proc. 81-10, 66.1
Rev. Proc. 81-14, 26.1
Rev. Proc. 81-17, 10.1
Rev. Proc. 81-18, 60.1
Rev. Proc. 81-27, 52.4
Rev. Proc. 81-33, 16.1
Rev. Proc. 81-35, 2.4
Rev. Proc. 81-37, 66.2
Rev. Proc. 81-38, 8.1
Rev. Proc. 81-46, 14.1
Rev. Proc. 81-47, 30.1

Revenue Rulings
Rev. Rul. 81-7, 218.2
Rev. Rul. 81-14, 168.1
Rev. Rul. 81-15, 168.2
Rev. Rul. 81-20, 112.2
Rev. Rul. 81-31, 238.1
Rev. Rul. 81-51, 168.3
Rev. Rul. 81-54, 250.5
Rev. Rul. 81-63, 134.3
Rev. Rul. 81-85, 60.6
Rev. Rul. 81-110, 222.3
Rev. Rul. 81-118, 118.2
Rev. Rul. 81-128, 142.2
Rev. Rul. 81-146, 174.7
Rev. Rul. 81-154, 102.1
Rev. Rul. 81-164, 168.4
Rev. Rul. 81-165, 146.1
Rev. Rul. 81-166, 134.1
Rev. Rul. 81-170, 174.4
Rev. Rul. 81-179, 174.8
Rev. Rul. 81-182, 106.1
Rev. Rul. 81-183, 140.4

Rev. Rul. 81-184, 140.3
Rev. Rul. 81-189, 50.2
Rev. Rul. 81-198, 254.2
Rev. Rul. 81-220, 112.1
Rev. Rul. 81-221, 140.1
Rev. Rul. 81-223, 254.4
Rev. Rul. 81-227, 168.8
Rev. Rul. 81-228, 160.3
Rev. Rul. 81-229, 168.5
Rev. Rul. 81-230, 254.1
Rev. Rul. 81-236, 174.9
Rev. Rul. 81-237, 54.1
Rev. Rul. 81-253, 254.3
Rev. Rul. 81-256, 102.3
Rev. Rul. 81-260, 50.1
Rev. Rul. 81-263, 118.1
Rev. Rul. 81-264, 250.4
Rev. Rul. 81-285, 174.5
Rev. Rul. 81-286, 168.6
Rev. Rul. 81-287, 102.2
Rev. Rul. 81-294, 52.3
Rev. Rul. 81-302, 114.4
Rev. Rul. 81-303, 118.4
Rev. Rul. 81-308, 174.6

Actions on Previously Published Revenue Rulings and Revenue Procedures

Revenue Procedures

68-20
Modified and superseded by
Rev. Proc. 81-38, 1981-35 I.R.B. 12

74-5
Superseded by
Rev. Proc. 81-35, 1981-33 I.R.B. 30

76-43
Superseded by
Rev. Proc. 81-46, 1981-40 I.R.B. 15

80-20
Modified, clarified and amplified by
Rev. Proc. 81-33, 1981-32 I.R.B. 19

80-21
Modified, clarified and amplified by
Rev. Proc. 81-33, 1981-32 I.R.B. 19

80-43
Superseded by
Rev. Proc. 81-47, 1981-40 I.R.B. 16

80-82
Superseded by
Rev. Proc. 81-10, 1981-1 C.B. 647

81-10
Amplified by
Rev. Proc. 81-37, 1981-34 I.R.B.22

Revenue Rulings

56-568
Superseded by
Rev. Rul. 81-263, 1981-45 I.R.B. 11

67-54
Revoked by
Rev. Rul. 81-15, 1981-1 C.B. 457

71-355
Revkked by
Rev. Rul. 81-302, 1981-51 I.R.B. 13

75-63
Revkked by
Rev. Rul. 81-302, 1981-51 I.R.B. 13

75-504
Revkked by
Rev. Rul. 81-221, 1981-39 I.R.B. 5

76-348
Amplified by
Rev. Rul. 81-227, 1981-40 I.R.B. 6

79-353
Modified by
Rev. Rul. 81-51, 1981-1 C.B. 458

80-179
Superseded by
Rev. Rul. 81-170, 1981-1 C.B. 589

Finding Lists for Public Laws and Treasury Decisions

Internal Revenue Code of 1954

Sec. 2001
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2010
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2011
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2012
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2032A
Pub.L. 97-34, 1981-37 I.R.B. 7

§20.2032A-3
T.D. 7786, 1981-41 I.R.B. 11

§20.2032A-8
T.D. 7786, 1981-41 I.R.B 11

§22.0
T.D. 7793, 1981-48 I.R.B. 6

Sec. 2035
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2039
Pub.L. 97-34, 1981-37 I.R.B. 7

§20.2039-2
T.D. 7761, 1981-1 C.B. 459

§20.2039-3
T.D. 7761, 1981-1 C.B. 459

§20.2039-4
T.D. 7761, 1981-1 C.B. 459

§20.2039-5
T.D. 7761, 1981-1 C.B. 459

Sec. 2040
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2044
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2045
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2046
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2055
Pub.L. 96-605, 1980-2 C.B. 702
Pub.L. 97-34, 1981-37 I.R.B. 7
Pub.L. 97-35, 1981-52 I.R.B. 17

Sec. 2056
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2057
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2204
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2207A
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2501
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2502
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2503
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2504
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2505
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2512
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2513
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2514
§25.2514-1
T.D. 7757, 1981-1 C.B. 576
§25.2514-3
T.D. 7776, 1981-1 C.B. 478

Sec. 2515
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2515A
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2517
Pub.L. 97-34, 1981-37 I.R.B. 7

§25.2517-1
T.D. 7761, 1981-1 C.B. 459

Sec. 2518
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2519
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2522
Pub.L. 97-34, 1981-37 I.R.B. 7
Pub.L. 97-35, 1981-52 I.R.B. 17

Sec. 2523
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2602
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 2621
Pub.L. 97-34, 1981-37 I.R.B. 7

§26a.2621-1
T.D. 7769, 1981-1 C.B. 480
T.D. 7792, 1981-48 I.R.B. 13

Sec. 6018
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6019
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6075
Pub.L. 97-34, 1981-37 I.R.B. 7

§25.6075-1
T.D. 7757, 1981-1 C.B. 576

Sec. 6103
Pub.L. 96-598, 1980-2 C.B. 661
Pub.L. 97-34, 1981-37 I.R.B. 7

§301.6103(l)(2)-3
T.D. 7757, 1981-1 C.B. 576

Sec. 6155
Pub.L. 96-589, 1980-2 C.B. 607

Sec. 6161
Pub.L. 96-589, 1980-2 C.B. 607
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6166
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6166A
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6212
Pub.L. 96-589, 1980-2 C.B. 607
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6213
Pub.L. 96-589, 1980-2 C.B. 607

Sec. 6324A
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6324B
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6503
Pub.L. 96-589, 1980-2 C.B. 607
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6532
Pub.L. 96-589, 1980-2 C.B. 607

Sec. 6621
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6652
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6653
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6656
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6658
Pub.L. 96-589, 1980-2 C.B. 607

Sec. 6659
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 6871
Pub.L. 96-589, 1980-2 C.B. 607

Sec. 7403
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 7451
Pub.L. 97-34, 1981-37 I.R.B. 7

Sec. 7508
Pub.L. 96-589, 1980-2 C.B. 607

Sec. 7517
§301.7517-1
T.D. 7757, 1981-1 C.B. 576

Statement of Procedural Rules

601.102
1981-1 C.B. 695

601.103
1981-1 C.B. 695

601.105
1981-1 C.B. 695

601.106
1981-1 C.B. 695

601.201
1981-1 C.B. 695

601.203
1981-1 C.B. 695

601.506
1981-1 C.B. 695

601.602
1981-1 C.B. 695

Public Laws Published in the Bulletin

96-589 (H.R. 8200) 1980-2 C.B. 607
(Bankruptcy Tax Act of 1980)
S. Rept. 96-1035, 1980-2 C.B. 620
96-598 (H.R. 3317), 1980-2 C.B. 661
S. Rept. 96-898, 1980-2 C.B. 663
96-605 (H.R. 7956), 1980-2 C.B. 702
(Miscellaneous Revenue Act of 1980)
H. Rept. 96-1278, 1980-2 C.B. 709
S. Rept. 96-1036, 1980-2 C.B. 723
97-34 (H.R. 4242), 1981-37 I.R.B. 7
(Economic Recovery Tax Act of 1981)
H. Rept. 97-201, 1981-38 I.R.B. 49
S. Rept. 97-144, 1981-38 I.R.B. 108
Conf. Rept. 97-215, 1981-38 I.R.B. 4
97-35 (H.R. 3982), 1981-52 I.R.B 17
(Omnibus Budget Reconciliation Act of 1981)
H. Rept. 97-158 Vol. I, 1981-52 I.R.B. 24

Digests of Revenue Rulings, Revenue Procedures, and other published items except Public Laws, Treasury Decisions, and Tax Conventions

ADMINISTRATIVE

Administration

2.1 Assistant Secretary (Tax Policy); final determination. The authority to make final determinations on issues of tax policy is delegated to the Assistant Secretary (Tax Policy). Treas. Dept. Orders 150-41 and 170-3 superseded.

Treas. Dept. Order No. 111-2, 1981-1 C.B. 698.

2.2 Delegations of authority. The following documents deal with delegations of authority with respect to the Service:

Del. Order—Citation—Subject

4 (Rev. 12), 1981-43 I.R.B. 13. Summonses.

67 (Rev. 15), 1981-1 C.B. 609. Signing for Acting Commissioner.

156 (Rev. 1), Amend. 2, 1981-28 I.R.B. 16. Disclosure of returns and return information.

165 (Rev. 3), 1981-1 C.B. 610. Appeals; Freedom of Information Act.

2.3 Office of Industrial Economics; transferred. The functions of the Office of Industrial Economics is transferred from the Office of Assistant Secretary (Tax Policy) to the Commissioner of the Internal Revenue Service. Treas. Dept. Order 175-5 superseded and Treas Dept. Order 111-1 recinded.

Treas. Dept. Order 150-93, 1981-31 I.R.B. 13.

2.4 Reopening closed cases. Rules are set forth governing the reopening of cases closed by district offices, service centers, or the Office of International Operations. Certain types of cases are listed in which reconsideration is not considered a reopening. Rev. Proc. 74-5 superseded. §301.7605-1. (Sec. 601.105, S.P.R.; Sec. 7605, '54 Code.)

Rev. Proc. 81-35, 1981-33 I.R.B. 30

Attorneys and agents

8.1 Unenrolled preparers of returns. Procedures are set forth to prescribe the standards of conduct, the scope of authority, and the circumstances and conditions under which an individual preparer of tax returns may exercise, without enrollment, the privilege of limited practice as a taxpayer's representative before the Service. Rev. Proc. 68-20 modified and superseded. (Sec. 601.502, S.P.R.)

Rev. Proc. 81-38, 1981-35 I.R.B. 12.

Bankruptcy and receiverships

10.1 Examination of returns. Procedures are provided for the trustee (or debtor in possession) to obtain a prompt determination by the Service of any unpaid tax liability of the bankruptcy estate incurred during the administration of the estate. (Sec. 601.105, S.P.R.)

Rev. Proc. 81-17, 1981-1 C.B. 688.

10.2 Refunds and credits. A procedure is provided for the trustee (or debtor in possession) representing the bankruptcy estate to file a claim for credit or refund for any overpayment of tax. §301.6402-2. (Sec. 601.105, S.P.R.; Sec. 6402, '54 Code.)

Rev. Proc. 81-18, 1981-1 C.B. 688

Books and records

14.1 Microfilm reproduction. Procedures are updated under which microfilm (including microfiche) reproduction of general books of account will be considered books and records. Rev. Proc. 64-12 amplified and Rev. Proc. 76-43 superseded. (Sec. 601.105, S.P.R.)

Rev. Proc. 81-46, 1981-40 I.R.B. 15.

14.2 Reopening closed cases. Rules are set forth governing the reopening of cases closed by district offices, service centers, or the Office of International Operations. Certain types of cases are listed in which reconsideration is not considered a reopening. Rev. Proc. 74-5 superseded. §301.7605-1 (Sec. 601-105, S.P.R.; Sec. 7605, '54 Code.)

Rev. Proc. 81-35, 1981-33 I.R.B. 30.

Closing agreements

16.1 Rulings and determination letters. Changes are made in Rev. Proc. 80-20 and 80-21 relating to requesting and issuing rulings and determination letters, entering into closing agreements on specific issues, and requesting and furnishing technical advice to District Directors and Chiefs, Appeals Offices. Rev. Procs. 80-20 and 80-21 modified, clarified, and amplified. (Secs. 601.105, 601.201; S.P.R.)

Rev. Proc. 81-33, 1981-32 I.R.B. 19.

Deficiencies

24.1 Adjusted interest rate. The adjusted rate of interest on underpayments and overpayments of taxes will be 20 percent effective February 1, 1982. §301.6621-1. (Sec. 6621, '54 Code.)

Rev. Rul. 81-260, 1981-41 I.R.B. 19.

24.2 Interest; farm; special use value; premature disposal. When an election to specially value property has been made under section 2032A and the property is later disposed of prematurely, interest on the additional estate tax due will be assessed for the period commencing 6 months after the date of disposition. §§20.2032A-8, 20.6151-1, 301.6601-1. (Secs. 2032A, 6151, 6601; '54 Code.)

Rev. Rul. 81-308, 1981-52 I.R.B. 11.

Elections

26.1 Written agreement; valuation of property. Guidelines are provided for the filing of a written agreement executed by all parties who have any interest in property that is being valued at its value as a farm or closely held business rather than at its fair market value. §20.2032A-8. (Sec. 601.105, S.P.R.; Sec. 2032A, '54 Code.)

Rev. Proc. 81-14, 1981-1 C.B. 669.

Extension of time

28.1 Estate and gift taxes; overpayment with request; interest. The excess of the amount paid with a request for an extension of time to file over the final tax liability shown on an estate or gift tax return is an overpayment. Interest is due and payable from the last date prescribed for filing the return, determined without regard to any extension, to a date 30 days prior to the date of the refund check. §§20.6081-1, 20.6151-1, 25.6081-1, 25.6151-1, 301.6401-1, 301.6611-1. (Secs. 6081, 6151, 6401, 6611; '54 Code.)

Rev. Rul. 81-189, 1981-30 I.R.B. 17.

28.2 Estate tax; installment payments; deficiency or overpayment; closely held business. Examples illustrate the amount due when installment payments are recomputed because of determinations of deficiencies, overpayments, and changes in the ratio of the value of an interest in a closely held business to the value of the estate. §§20.6166-1, 20.6166A-1, 301.6402-1, 301.6403-1. (Secs. 6166, 6166A, 6402, 6403; '54 Code.)

Rev. Rul. 81-294, 1981-50 I.R.B. 14.

28.3 Estate tax; payment; deduction of interest. When no waivers were filed under section 642(g), all interest expenses actually incurred on the deferred payment of the federal estate tax are deductible under section 2053(a)(2), even though the interest expenses were claimed on the estate's income tax returns and the period of limitations on assessment of income tax has expired for those years. Under the doctrine of equitable recoupment, the amount of the estate tax overpayment is offset by the deficiencies and the interest on them resulting from the deduction of interest on income tax returns for the years for which the period of limitations on assessment of income tax has expired. §20.2053-3. (Secs. 642, 2053, 6166, 6166A, 6501; '54 Code.)

Rev. Rul. 81-287, 1981-49 I.R.B. 13.

28.4 Estate tax; valuation; Treasury bonds; redeemed to pay tax. Under section 2031, the value of the decedent's Treasury bonds that could have been applied toward the portion of the federal estate tax that was deferred under section 6166 is their par value. §§20.2031-2, 20.6161-1, 20-6163-1, 20.6166-1, 20.6166A-1. (Secs. 2031, 6161, 6163, 6166, 6166A; '54 Code.)

Rev. Rul. 81-228, 1981-40 I.R.B. 7.

28.5 Failure to file; addition to tax. An estate or donor of a gift is subject to the addition to the tax for failure to file timely when the tax due on the return is paid with the filing for an extension of time but the return is not filed until after the period covered by the extension, and reasonable cause is not established. §§20.6075-1, 25.6075-1, 20.6081-1, 25.6081-1, 20.6151-1, 25.6151-1, 20.6161-1, 25.6161-1, 301.6651-1. (Secs. 6075, 6081, 6151, 6161, 6651; '54 Code.)

Rev. Rul. 81-237, 1981-41 I.R.B. 12.

Forms

30.1 Bulk quantities to preparers; shipping charge. The handling and shipping charge for furnishing bulk quantities of forms to paid preparers is adjusted. Rev. Proc. 80-43 superseded. (Sec. 601.602, S.P.R.)

Rev. Proc. 81-47, 1981-40, I.R.B. 16.

Limitation period

44.1 Claims; state death tax credit. A claim for refund of federal estate tax based on an additional state death tax credit claimed under section 2011 may be made during the 2-year period for filing a claim for refund under section 6511(a) even though the 4-year period of limitation under section 2011(c) has expired. Rev. Rul. 56-568 superseded. §§20.2011-1, 301.6511(a)-1. (Secs. 2011, 6511; '54 Code.)

Rev. Rul. 81-263, 1981-45 I.R.B. 11.

44.2 Interest; installment payment of tax; equitable recoupment. When no waivers were filed under section 642(g), all interest expenses actually incurred on the deferred payment of the federal estate tax are deductible under section 2053(a)(2), even though the interest expenses were claimed on the estate's income tax returns and the period of limitations on assessment of income tax has expired for those years. Under the doctrine of equitable recoupment, the amount of the estate tax overpayment is offset by the deficiencies and the interest on them resulting from the deduction of interest on income tax returns for the years for which the period of limitations on assessment of income tax has expired. §20.2053-3. (Secs. 642, 2053, 6166, 6166A, 6501; '54 Code.)

Rev. Rul. 81-287, 1981-49 I.R.B. 13.

Overpayments

50.1 Adjusted interest rate. The adjusted rate of interest on underpayments and overpayments of taxes will be 20 percent effective February 1, 1982. §301.6621-1. (Sec. 6621, '54 Code.)
Rev. Rul. 81-260, 1981-41 I.R.B. 19.

50.2 Interest; excess payment with extension of time to file. The excess of the amount paid with a request for an extension of time to file over the final tax liability shown on an estate or gift tax return is an overpayment. Interest is due and payable from the last date prescribed for filing the return, determined without regard to any extension, to a date 30 days prior to the date of the refund check. §§20.6081-1, 20.6151-1, 25.6081-1, 25.6151-1, 301.6401-1, 301.6611-1. (Secs. 6081, 6151, 6401, 6611; '54 Code.)
Rev. Rul. 81-189, 1981-30 I.R.B. 17.

Payment of tax

52.1 Extension of time; failure to file timely; addition to tax. An estate or donor of a gift is subject to the addition to the tax for failure to file timely when the tax due on the return is paid with the filing for an extension of time but the return is not filed until after the period covered by the extension, and reasonable cause is not established. §§20.6075-1, 25.6075-1, 20.6081-1, 25.6081-1, 20.6151-1, 25.6151-1, 20.6161-1, 25.6161-1, 301.6651-1. (Secs. 6075, 6081, 6151, 6161, 6651; '54 Code.)
Rev. Rul. 81-237, 1981-41 I.R.B. 12.

52.2 Farm; special use value; premature disposal; interest. When an election to specially value property has been made under section 2032A and the property is later disposed of prematurely, interest on the additional estate tax due will be assessed for the period commencing 6 months after the date of disposition. §§20.2032A-8, 20.6151-1, 301.6601-1. (Secs. 2032A, 6151, 6601; '54 Code.)
Rev. Rul. 81-308, 1981-52 I.R.B. 11.

52.3 Installment method; extension; deficiency or overpayment; closely held business. Examples illustrate the amount due when installment payments are recomputed because of determinations of deficiencies, overpayments, and changes in the ratio of the value of an interest in a closely held business to the value of the estate. §§20.6166-1, 20.6166A-1, 301.6402-1, 301.6403-1. (Secs. 6166, 6166A, 6402, 6403; '54 Code.)
Rev. Rul. 81-294, 1981-50 I.R.B. 14.

52.4 Installment method; procedures; amount recomputed; deduction for interest payment on tax due. The procedure is set forth for estates to follow when installment payments due under sections 6166 and 6166A are recomputed because of a reduction in the estate tax as a result of a deduction for the interest payment on the tax due. §§20.2053-3, 20.6166-1, 20.6166A-1. (Sec. 601.105, S.P.R., Secs. 2053, 6166, 6166A, '54 Code.)
Rev. Proc. 81-27, 1981-27 I.R.B. 21.

Penalties

54.1 Extension of time; failure to file timely. An estate or donor of a gift is subject to the addition to the tax for failure to file timely when the tax due on the return is paid with the filing for an extension of time but the return is not filed until after the period covered by the extension, and reasonable cause is not established. §§20.6075-1, 25.6075-1, 20.6081-1, 25.6081-1, 20.6151-1, 25.6151-1, 20.6161-1, 25.6161-1, 301.6651-1. (Secs. 6075, 6081, 6151, 6161, 6651; '54 Code.)
Rev. Rul. 81-237, 1981-41 I.R.B. 12.

Refunds and credits

60.1 Bankruptcy estate. A procedure is provided for the trustee (or debtor in possession) representing the bankruptcy estate to file a claim for credit or refund for any overpayment of tax. §301.6402-2. (Sec. 601.105, S.P.R.; Sec. 6402, '54 Code.)
Rev. Proc. 81-18, 1981-1 C.B. 688.

60.2 Claims; limitation period. A claim for refund of federal estate tax based on an additional state death tax credit claimed under section 2011 may be made during the 2-year period for filing a claim for refund under section 6511(a) even though the 4-year period of limitation under section 2011(c) has expired. Rev. Rul. 56-568 superseded. §§20.2011-1, 301.6511(a)-1. (Secs. 2011, 6511; '54 Code.)
Rev. Rul. 81-263, 1981-45 I.R.B. 11.

60.3 Estate tax; installment payments; extension of time; deficiency or overpayment; closely held business. Examples illustrate the amount due when installment payments are recomputed because of determinations of deficiencies, overpayments, and changes in the ratio of the value of an interest in a closely held business to the value of the estate. §§20.6166-1, 20.6166A-1, 301.6402-1, 301.6403-1. (Secs. 6166, 6166A, 6402, 6403; '54 Code.)
Rev. Rul. 81-294, 1981-50 I.R.B. 14.

60.4 Overpayment exceeding $200,000 offset by merger partner's deficiency. A merged corporation's deficiency for a tax year before the merger may not offset an overpayment of its merger partner for a premerger tax year to determine whether a refund report must be made to the Joint Committee on Taxation. §301.6405-1. (Sec. 6405, '54 Code.)
Rev. Rul. 81-77, 1981-1 C.B. 582.

60.5 Overpayment with extension of time request; interest. The excess of the amount paid with a request for an extension of time to file over the final tax liability shown on an estate or gift tax return is an overpayment. Interest is due and payable from the last date prescribed for filing the return, determined without regard to any extension, to a date 30 days prior to the date of the refund check. §§20.6081-1, 20.6151-1, 25.6081-1, 25.6151-1, 301.6401-1, 301.6611-1. (Secs. 6081, 6151, 6401, 6611; '54 Code.)
Rev. Rul. 81-189, 1981-30 I.R.B. 17.

60.6 Split gift made within 3 years of spouses deaths. If a decedent's spouse dies after the decedent, and a gift that the decedent consented to split is includible in the spouse's estate, the decedent's estate is entitled to recompute its tax. §25.2513-1. (Secs. 2001, 2035, 2512; '54 Code.)
Rev. Rul. 81-85, 1981-1 C.B. 452.

60.7 Unified credit; tax conventions. The term "specific exemption" referred to in the estate tax conventions between the United States and Australia, Finland, Greece, Italy, Japan, Norway, and Switzerland may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Switzerland is entitled to only the $3,600 unified credit. (Sec. 2101, '54 Code.)
Rev. Rul. 81-303, 1981-51 I.R.B. 15.

Returns

64.1 Examination; bankruptcy estates. Procedures are provided for the trustee (or debtor in possession) to obtain a prompt determination by the Service of any unpaid tax liability of the bankruptcy estate incurred during the administration of the estate. (Sec. 601.105, S.P.R.)
Rev. Proc. 81-17, 1981-1 C.B. 688.

64.2 Failure to file; extension of time; addition to tax. An estate or donor of a gift is subject to the addition to the tax for failure to file timely when the tax due on the return is paid with the filing for an extension of time but the return is not filed until after the period covered by the extension, and reasonable cause is not established. §§20.6075-1, 25.6075-1, 20.6081-1, 25.6081-1, 20.6151-1, 25.6151-1, 20.6161-1, 25.6161-1, 301.6651-1. (Secs. 6075, 6081, 6151, 6161, 6651; '54 Code.)
Rev. Rul. 81-237, 1981-41 I.R.B. 12.

64.3 Reopening closed cases. Rules are set forth governing the reopening of cases closed by district offices, service centers, or the Office of International Operations. Certain types of cases are listed in which reconsideration is not considered a reopening. Rev. Proc. 74-5 superseded. §301.7605-1. (Sec. 601.105, S.P.R.; Sec. 7605, '54 Code.)
Rev. Proc. 81-35, 1981-33 I.R.B. 30.

Rulings

66.1 Areas in which advance rulings will not be issued. A revised list is provided of those areas of the Code under the jurisdiction of the Assistant Commissioner (Technical) in which the Service will not issue advance rulings or determination letters. Rev. Procs. 80-22, 80-34, 80-37, 80-38, 80-41, 81-1, 81-4, 81-5, and 81-8 superseded. (Sec. 601.201, S.P.R.)
Rev. Proc. 81-10, 1981-1 C.B. 647.

66.2 Areas in which advance rulings will not be issued. The Service will not issue advance rulings as to whether the transfer of property to a trust will be a gift of a present interest in property when (1) the trust corpus consists or will consist substantially of insurance policies on the life of the grantor or the grantor's spouse, (2) the trustee or any other person has the power to apply the trust's income or corpus to the payment of premiums on policies of insurance on the life of the grantor or the grantor's spouse, (3) the trustee or any other person has a power to use the trust's assets to make loans to the grantor's estate or to purchase assets from the grantor's estate, (4) the trust beneficiaries have the power to withdraw, on demand, any additional transfers made to the trust, and (5) there is a right or power in any person that would cause the grantor to be treated as the owner of all or a portion of the trust under sections 673 to 677 of the Code. Rev. Proc. 81-10 amplified. (Sec. 601.201, S.P.R.)
Rev. Proc. 81-37, 1981-34 I.R.B. 22.

66.3 Issuance procedures; technical advice to District Directors. Changes are made in Rev. Procs. 80-20 and 80-21 relating to requesting and issuing rulings and determination letters, entering into closing agreements on specific issues, and requesting and furnishing technical advice to District Directors and Chiefs, Appeals Offices. Rev. Procs. 80-20 and 80-21 modified, clarified, and amplified. (Secs. 601.105, 601.201; S.P.R.)
Rev. Proc. 81-33, 1981-32 I.R.B. 19.

ESTATE TAX

Administration expenses

102.1 Failure to file and pay penalties; interest. The failure to file and pay penalties are not deductible as administration expenses under section 2053 even if allowable under local law. The interest on a federal estate tax liability is a deductible administration expense to the extent allowable under local law regardless of the reason incurred. §§20.2053-3, 301.6601-1, 301.6651-1. (Secs. 2053, 6601, 6651; '54 Code.)
Rev. Rul. 81-154, 1981-1 C.B. 470.

102.2 Interest; installment payment of tax. When no waivers were filed under section 642(g), all interest expenses actually incurred on the deferred payment of the federal estate tax are deductible under section 2053(a)(2), even though the interest expenses were claimed on the estate's income tax returns and the period of limitations on assessment of income tax has expired for those years.

Under the doctrine of equitable recoupment, the amount of the estate tax overpayment is offset by the deficiencies and the interest on them resulting from the deduction of interest on income tax returns for the years for which the period of limitations on assessment of income tax has expired. §20.2053-3. (Secs. 642, 2053, 6166, 6166A, 6501; '54 Code.)

Rev. Rul. 81-287, 1981-49 I.R.B. 13.

102.3 Interest; state death tax. Interest incurred on the deferral of state death taxes is deductible under section 2053 as an expense of administration. §20.2053-3. (Sec. 2053, '54 Code.)

Rev. Rul. 81-256, 1981-44 I.R.B. 17.

102.4 Widow's attorney's fees; determination by the state court. In litigation relating to the ownership of certain property transferred to the decedent's widow by the decedent prior to his death, the state court approved a compromise agreement which required that the estate pay the widow's attorney's fees. *Held,* the attorney's fees may be deducted as: (1) administration expenses under section 2053, as being essential to proper settlement of the estate under reg 20.2053-3(c)(3); (2) part of the cost of the executor's discharging his responsibility for collection of assets under reg. 20.2053-3 or; (3) as a settlement of a claim against the estate under section 2053. (Sec. 2053, '54 Code.)

Peter W. Reilly, 76 T.C. 369, Acq., 1981-43 I.R.B. 5.

Annuities

106.1 Survivorship; Social Security; monthly benefits. The value of monthly benefits payable to a decedent's spouse under section 402(e) of the Social Security Act is not includible in the decedent's gross estate under section 2033 or 2039. §§20.2033-1, 20.2039-1. (Sec. 2033, 2039; '54 Code.)

Rev. Rul. 81-182, 1981-28 I.R.B. 6.

Charitable, etc., transfers

112.1 Farms; charitable remainder; special use value. A farm in which the decedent has transferred a life interest, in trust or otherwise, to a member of the decedent's family with the remainder interest in the property going to charity may not be valued under section 2032A. §§20.2032A-8, 20.2055-2. (Secs. 2032A, 2055; '54 Code.)

Rev. Rul. 81-220, 1981-39 I.R.B. 5.

112.2 Residuary interest; executor's discretion. A decedent's will provides for a legacy of specific dollar value to the decedent's adult child and for distribution of the estate's residue to a qualified charitable organization. The executor has absolute power to satisfy the legacy in cash, in property valued at fair market value on the date of distribution, or a combination of both, and to select the date for distribution of the estate's assets. Applicable state law requires the executor to act impartially with respect to the beneficiaries. A deduction is allowable under section 2055 for the bequest of the residue. §20.2055-2. (Sec. 2055, '54 Code.)

Rev. Rul. 81-20, 1981-1 C.B. 471.

112.3 Trust remainder; power of appointment; division of assets. Decedent was the beneficiary of a testamentary trust established under the will of her predeceased husband. The trust gave the decedent a power of appointment over the corpus of the property and provided that upon the death of the decedent, noncharitable beneficiaries would receive life income interest equal to 60% of the trust income and a charitable organization would receive a income interest equal to 40% of the trust income. After decedent's death, the trustee was informed that the estate would not be entitled to a charitable deduction under section 2055(a) of the Code because the trust did not comply with the restrictions contained in section 2055(e). The trustee, pursuant to specific authority in the trust instrument, segregated 40% of the trust assets and held this portion exclusively for the benefit of the charitable organization. *Held,* a wholly charitable trust was created for purposes of section 2055(e)(3) and the estate is entitled to a charitable deduction for the value of the 40% portion. (Sec. 2055, '54 Code.)

Nancy F. Crafts, 74 T.C. 1439, Acq. in result, 1981-43 I.R.B. 5.

Claims against estate

114.1 Deduction for widow's attorney's fees; determination by state court. In litigation relating to the ownership of certain property transferred to the decedent's widow by the decedent prior to his death, the state court approved a compromise agreement which required that the estate pay the widow's attorney's fees. *Held,* the attorney's fees may be deducted as; (1) administration expenses under section 2053, as being essential to proper settlement of the estate under reg. 20.2053-3(c)(3); (2) part of the cost of the executor's discharging his responsibility for collection of assets under reg. 20.2053-3 or; (3) as a settlement of a claim against the estate under section 2053. (Sec. 2053, '54 Code.)

Peter W. Reilly, 76 T.C. 369, Acq., 1981-43 I.R.B. 5.

114.2 Refinanced mortgage balance outstanding; jointly held property. A decedent and the decedent's spouse each contributed cash toward the purchase of a residence as joint tenants with rights of survivorship and were jointly liable for a mortgage on the property, on which the decedent made all payments. The mortgage was refinanced and both the decedent and the decedent's spouse made payments. Upon the decedent's death, the estate and the spouse became jointly liable for the mortgage debt. Computations are shown for the amount includible in the decedent's gross estate under section 2040 and the amount deductible under section 2053 with respect to the refinanced mortgage indebtedness. §§20.2040-1, 20.2053-7. (Secs. 2040, 2053, '54 Code.)

Rev. Rul. 81-184, 1981-28 I.R.B. 9.

114.3 Second mortgage; jointly held residence. A decedent and the decedent's spouse each contributed cash toward the purchase of a residence as joint tenants with rights of survivorship and were jointly liable for a mortgage on the property on which the decedent made all payments. A second mortgage was obtained on which the spouse made all the payments. Upon the decedent's death, the estate and the spouse became jointly liable for the mortgage debt with rights of contribution. Computations are shown for the amount includible in the decedent's gross estate under section 2040 and the amount deductible under section 2053 with respect to the mortgage indebtedness when the proceeds of the second mortgage were used either to make improvements to the residence or for purposes not related to the real estate. §§20.2040-1, 20.2053-7. (Secs. 2040, 2053, '54 Code.)

Rev. Rul. 81-183, 1981-28 I.R.B. 7.

114.4 State gift tax paid. A state gift tax paid by a donor on a transfer later included in the donor's state inheritance tax base, and regarded as an advance payment of state inheritance tax, does not create an asset of the estate for purposes of section 2033 and is not includible in the decedent's gross estate at death. A credit under section 2011 is not allowable for any amount of inheritance tax considered paid by a credit of state gift tax paid before death. A state gift tax unpaid at death, which gives rise to a credit against the state inheritance tax when paid, is not allowable as a credit under section 2011, but is deductible as a claim against the estate under section 2053. Rev. Ruls. 71-355 and 75-63 revoked. §§20.2011-1, 20.2033-1, 20.2053-6. (Secs. 2011, 2033, 2053; '54 Code.)

Rev. Rul. 81-302, 1981-51 I.R.B. 13; Grace E. Lang, 64 T.C. 404, Acq., 1981-51 I.R.B. 5; George E. P. Gamble, 69 T.C. 942, Acq., 1981-51 I.R.B. 5.

Community property

116.1 Decedent's interest; separate property; Texas. Separate property under Texas community property law that a decedent transferred to the spouse prior to death and which was held by the spouse as separate property, is not includible in the decedent's gross estate. Rev. Rul. 75-504 revoked. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-221, 1981-39 I.R.B. 5.

Credits against tax

118.1 Limitation period; claims; state death tax credit. A claim for refund of federal estate tax based on an additional state death tax credit claimed under section 2011 may be made during the 2-year period for filing a claim for refund under section 6511(a) even though the 4-year period of limitation under section 2011(c) has expired. Rev. Rul. 56-568 superseded. §§20.2011-1, 301.6511(a)-1. (Secs. 2011, 6511; '54 Code.)

Rev. Rul. 81-263, 1981-45 I.R.B. 11.

118.2 Prior transfers; valuation; alternate. The executor of an estate elected alternate valuation. For purposes of calculating the credit for tax on prior transfers, the value of a life estate is based on the appropriate factor for the transferee's age on the date of the transferor's death, and the value of the trust's corpus is determined on the alternate valuation date. §§20.2013-4, 20.2031-10, 20.2032-1. (Secs. 2013, 2031, 2032; '54 Code.)

Rev. Rul. 81-118, 1981-1 C.B. 453.

118.3 State gift tax paid. A state gift tax paid by a donor on a transfer later included in the donor's state inheritance tax base, and regarded as an advance payment of state inheritance tax, does not create an asset of the estate for purposes of section 2033 and is not includible in the decedent's gross estate at death. A credit under section 2011 is not allowable for any amount of inheritance tax considered paid by a credit of state gift tax paid before death. A state gift tax unpaid at death, which gives rise to a credit against the state inheritance tax when paid, is not allowable as a credit under section 2011, but is deductible as a claim against the estate under section 2053. Rev. Ruls. 71-355 and 75-63 revoked. §§20.2011-1, 20.2033-1, 20.2053-6. (Secs. 2011, 2033, 2053; '54 Code.)

Rev. Rul. 81-302, 1981-51 I.R.B. 13; Grace E. Lang, 64 T.C. 404, Acq., 1981-51 I.R.B. 5; George E. P. Gamble, 69 T.C. 942, Acq., 1981-51 I.R.B. 5.

118.4 Unified credit; tax conventions. The term "specific exemption" referred to in the estate tax conventions between the United States and Australia, Finland, Greece, Italy, Japan, Norway, and Switzerland may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Switzerland is entitled to only the $3,600 unified credit. (Sec. 2102, '54 Code.)

Rev. Rul. 81-303, 1981-51 I.R.B. 15.

Gross estate

134.1 Life insurance proceeds; paid to trust; policy owner to receive trust income for life. An individual purchased and owned a life insurance policy on another's life and designated the trustee of a revocable trust created by the insured as beneficiary. When the insured dies and the policy proceeds become payable to the trustee, the individual, who will receive the income of the trust for life, will have made a completed gift. Further, if the individual does not relinquish the life interest in the trust, the portion of the trust corpus attributable to the individual's contribution of the policy proceeds will be includible in the individual's gross estate at death. §§20.2036-1, 25.2501-1, 25.2511-1, 25.2511-2, 25.2512-9. (Secs. 2036, 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-166, 1981-1 C.B. 477.

134.2 State gift tax paid. A state gift tax paid by a donor on a transfer later included in the donor's state inheritance tax base, and regarded as an advance payment of state inheritance tax, does not create an asset of the estate for purposes of section 2033 and is not includible in the decedent's gross estate at death. A credit under section 2011 is not allowable for any amount of inheritance tax considered paid by a credit of state gift tax paid before death. A state gift tax unpaid at death, which gives rise to a credit against the state inheritance tax when paid, is not allowable as a credit under section 2011, but is deductible as a claim against the estate under section 2053. Rev. Ruls. 71-355 and 75-63 revoked. §§20.2011-1, 20.2033-1, 20.2053-6. (Secs. 2011, 2033, 2053; '54 Code.)

Rev. Rul. 81-302, 1981-51 I.R.B. 13; Grace E. Lang, 64 T.C. 404, Acq., 1981-51 I.R.B. 5; George E. P. Gamble, 69 T.C. 942 Acq., 1981-51 I.R.B. 5.

134.3 State public housing agency bonds. Bonds that are issued by a state public housing agency for a low-income housing project are included in the gross estate of the deceased owner of the bonds, even though the U.S. Housing Act of 1937 exempts them from all taxation. §20.2033-1. (Secs. 1001, 2033; '54 Code.)

Rev. Rul. 81-63, 1981-1 C.B. 455.

134.4 Transfers to irrevocable funded life insurance trust. The decedent obtained a life insurance policy, the proceeds of which were payable to the decedent's estate to the extent of the policy's cash surrender value, less any outstanding indebtedness. The balance of the proceeds was payable to the trustee of an irrevocable funded insurance trust that was created by the decedent and owned the policy and paid that portion of the annual premium that exceeded the annual increase in the cash surrender value. The decedent transferred funds to the trustee to enable the trustee to pay the trust portion of the premium. The balance the funds initially deposited that remained in the trust at the time of the decedent's death is not includible in the gross estate under section 2036. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-164, 1981-1 C.B. 458.

134.5 Transfers within 3 years of death; intrafamily loan. When an individual transfers cash to the individual's child within 3 years of death in exchange for a term promissory note having a fair market value less than the amount of the transferred cash, the amount includible is the difference between the amount of the loan and the fair market value of the note on the date of the gift. §§20.2033-1, 20.2043-1, 25.2512-8. (Secs. 2033, 2035, 2043, 2512; '54 Code.)

Rev. Rul. 81-286, 1981-49 I.R.B. 12.

134.6 Transfers within 3 years of death; gift tax. The gift tax paid by the decedent on a gift made within 3 years of death is includible in the gross estate under section 2035(c) even though the gift is also includible under another section. §20.2036-1. (Secs. 2035, 2036; '54 Code.)

Rev. Rul. 81-229, 1981-40 I.R.B. 7.

134.7 Transfers within 3 years of death; tenants by entirety. When the decedent and the decedent's spouse transfer joint tenancy property, as to which there was no election under section 2515(c), within 3 years of the decedent's death, one-half of the value of the property is includible in the decedent's gross estate under section 2035 and the other one-half of the value is reflected in the estate tax computation as an adjusted taxable gift under section 2001. Rev. Rul. 76-348 amplified. §25.2515-1. (Secs. 2001, 2035, 2515; '54 Code.)

Rev. Rul. 81-227, 1981-40 I.R.B. 6.

Husband and wife

136.1 Split gifts; deaths of spouses within three years of gift. If a decedent's spouse dies after the decedent, and a gift that the decedent consented to split is includible in the spouse's estate, the decedent's estate is entitled to recompute its tax. §25.2513-1. (Secs. 2001, 2035, 2512; '54 Code.)

Rev. Rul. 81-85, 1981-1 C.B. 452.

Interests in property

140.1 Community property; decedent's interest; separate property; Texas. Separate property under Texas community property law that a decedent transferred to the spouse prior to death and which was held by the spouse as separate property, is not includible in the decedent's gross estate. Rev. Rul. 75-504 revoked. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-221, 1981-39 I.R.B. 5.

140.2 Farm; special use value and eligible joint interest elections. The portion of an eligible joint interest includible in a decedent's gross estate under section 2040(c) is computed using the fair market value as the "value of such interest" under section 2040(c)(1)(A) even though the estate has elected the special use valuation for the interest under section 2032A. (Secs. 2040, 2032A; '54 Code.)

Rev. Rul. 81-146, 1981-1 C.B. 468.

140.3 Jointly held property; refinanced mortgage balance outstanding. A decedent and the decedent's spouse each contributed cash toward the purchase of a residence as joint tenants with rights of survivorship and were jointly liable for a mortgage on the property, on which the decedent's spouse made payments. The mortgage was refinanced and both the decedent and the decedent's spouse made payments. Upon the decedent's death, the estate and the spouse became jointly liable for the mortgage debt. Computations are shown for the amount includible in the decedent's gross estate under section 2040 and the amount deductible under section 2053 with respect to the refinanced mortgage indebtedness. §§20.2040-1, 20.2053-7. (Secs. 2040, 2053; '54 Code.)

Rev. Rul. 81-184, 1981-28 I.R.B. 9.

140.4 Jointly held property; residence; second mortgage. A decedent and the decedent's spouse each contributed cash toward the purchase of a residence as joint tenants with rights of survivorship and were jointly liable for a mortgage on the property on which the decedent made all payments. A second mortgage was obtained on which the spouse made all the payments. Upon the decedent's death, the estate and the spouse became jointly liable for the mortgage debt with rights of contribution. Computations are shown for the amount includible in the decedent's gross estate under section 2040 and the amount deductible under section 2053 with respect to the mortgage indebtedness when the proceeds of the second mortgage were used either to make improvements to the residence or for purposes not related to the real estate. §§20.2040-1, 20.2053-7. (Ses. 2040, 2053; '54 Code.)

Rev. Rul. 81-183, 1981-28 I.R.B. 7.

140.5 State gift tax paid for transfer included in donor's state inheritance tax base. A state gift tax paid by a donor on a transfer later included in the donor's state inheritance tax base, and regarded as an advance payment of state inheritance tax, does not create an asset of the estate for purposes of section 2033 and is not includible in the decedent's gross estate at death. A credit under section 2011 is not allowable for any amount of inheritance tax considered paid by a credit of state gift tax paid before death. A state gift tax unpaid at death, which gives rise to a credit against the state inheritance tax when paid, is not allowable as a credit under section 2011, but is deductible as a claim against the estate under section 2053. Rev. Ruls. 71-355 and 75-63 revoked. §§20.2011-1, 20.2033-1, 20.2053-6. (Secs. 2011, 2033, 2053; '54 Code.)

Rev. Rul. 81-302, 1981-51 IR.B. 13; Grace E. Lang, 64 T.C. 404, Acq., 1981-51 I.R.B. 5; George E. P. Gamble, 69 T.C. 942, Acq., 1981-51 I.R.B. 5.

140.6 State public housing agency bonds. Bonds that are issued by a state public housing agency for a low-income housing project are included in the gross estate of the deceased owner of the bonds, even though the U.S. Housing Act of 1937 exempts them from all taxation. §20.2033-1. (Secs. 1001, 2033; '54 Code.)

Rev. Rul. 81-63, 1981-1 C.B. 455.

140.7 Survivorship annuity; Social Security; monthly benefits. The value of monthly benefits payable to a decedent's spouse under section 402(e) of the Social Security Act is not includible in the decedent's gross estate under section 2033 or 2039. §§20.2033-1, 20.2039-1. (Secs. 2033, 2039; '54 Code.)

Rev. Rul. 81-182, 1981-28 I.R.B. 6.

140.8 Transfers within 3 years of death; tenants by entirety. When the decedent and the decedent's spouse transfer joint tenancy property, as to which there was no election under section 2515(c), within 3 years of the decedent's death, one-half of the value of the property is includible in the decedent's gross estate under section 2035 and the other one-half of the value is reflected in the estate tax computation as an adjusted taxable gift under section 2001. Rev. Rul. 76-348 amplified. §25.2515-1. (Secs. 2001, 2035, 2515; '54 Code.)

Rev. Rul. 81-227, 1981-40 I.R.B. 6.

Life insurance

142.1 Proceeds; paid to trust; policy owner to receive trust income for life. An individual purchased and owned a life insurance policy on another's life and designated the trustee of a revocable trust created by the insured as beneficiary. When the insured dies and the policy proceeds become payable to the trustee, the individual, who will receive the income of the trust for life, will have made a completed gift. Further, if the individual does not relinquish the life interest in the trust, the portion of the trust corpus attributable to the individual's contribution of the policy proceeds will be includible in the individual's gross estate at death. §§20.2036-1, 25.2501-1, 25.2511-1, 25.2511-2, 25.2512-9. (Secs. 2036, 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-166, 1981-1 C.B. 477.

142.2 Proceeds; power of insured to exercise incidents of ownership. The Service will not follow the *Connelly* decision that held the decedent's right under an employer-funded noncontributory group life insurance policy to select optional settlement modes in conjunction with the employer and insurer was not an incident of ownership within the meaning of section 2042. §20.2042-1. (Sec. 2042, '54 Code.)

Rev. Rul. 81-128, 1981-1 C.B. 469.

142.3 Proceeds; rights under employment agreement. Under an employment agreement, if the employer, the owner and beneficiary of two life insurance policies on a decedent's life, elected not to pay the premiums or to surrender and terminate the policies the decedent had a right to take an assignment of the policies in exchange for their cash value. *Held*, decedent's rights at death are not incidents of ownership under section 2042 and the proceeds of the policies are not includable in the gross estate. (Sec. 2042, '54 Code.)

John Smith, 73 T.C. 307, Acq. in result, 1981-1 C.B. 2.

142.4 Transfer within 3 years of death; insured predeceased decedent. The proceeds of an insurance policy on the life of another are includible in a decedent's gross estate if the decedent assigns that policy within three years of death and the insured predeceases the decedent. (Sec. 2035, '54 Code.)

Rev. Rul. 81-14, 1981-1 C.B. 456.

Marital deduction

146.1 Taxes; apportionate; Virginia; after 1979. For decedents dying after December 31, 1979, the marital deduction allowable under section 2056 with respect to property passing to the surviving spouse of a deceased resident of Virginia, whose will contained no provision directing the payment of federal estate tax or Virginia estate tax, is not reduced by the amount of Virginia estate tax due with respect to the estate. §20.2056(b)-4. (Sec. 2056, '54 Code.)

Rev. Rul. 81-165, 1981-1 C.B. 472.

Securities

160.1 State public housing agency bonds. Bonds that are issued by a state public housing agency for a low-income housing project are included in the gross estate of the deceased owner of the bonds, even though the U.S. Housing Act of 1937 exempts them from all taxation. §20.2033-1. (Secs. 1001, 2033; '54 Code.)

Rev. Rul. 81-63, 1981-1 C.B. 455.

160.2 Stock transferred in trust; retained power. Prior to death, a taxpayer transferred nonvoting closely held corporate stock to a trust, retained the voting stock of the corporation, and retained control over the disposition of the nonvoting stock. The taxpayer did not retain the right to determine the income from the nonvoting stock or the persons who would enjoy the income therefrom, and the value of the nonvoting stock is not includible in the gross estate of the decedent. Rev. Rul. 67-54 revoked. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-15, 1981-1 C.B. 457.

160.3 Treasury bonds; redeemed to pay tax. Under section 2031, the value of the decedent's Treasury bonds that could have been applied toward the portion of the federal estate tax that was deferred under section 6166 is their par value. §§20.2031-2, 20.6161-1, 20.6163-1, 20.6166-1, 20.6166A-1. (Secs. 2031, 6161, 6163, 6166, 6166A; '54 Code.)

Rev. Rul. 81-228, 1981-40 I.R.B. 7.

Tax

Deduction

164.1 State gift tax paid for transfer included in donor's state inheritance tax base. A state gift tax paid by a donor on a transfer later included in the donor's state inheritance tax base, and regarded as an advance payment of state inheritance tax, does not create an asset of the estate for purposes of section 2033 and is not includible in the decedent's gross estate at death. A credit under section 2011 is not allowable for any amount of inheritance tax considered paid by a credit of state gift tax paid before death. A state gift tax unpaid at death, which gives rise to a credit against the state inheritance tax when paid, is not allowable as a credit under section 2011, but is deductible as a claim against the estate under section 2053. Rev. Ruls. 71-355 and 75-63 revoked. §§20.2011-1, 20.2033-1, 20.2053-6. (Secs. 2011, 2033, 2053; '54 Code.)

Rev. Rul. 81-302, 1981-51 I.R.B. 13; Grace E. Lang, 64 T.C. 404 Acq., 1981-51 I.R.B. 5; George E. P. Gamble, 69 T.C. 942, Acq., 1981-51 I.R.B. 5.

Tax conventions

Australia

166.1 Unified credit. The term "specific exemption" referred to in the estate tax convention between the United States and Australia may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Australia is entitled to only the $3,600 unified credit allowed under section 2120(c)(2) of the Code.

Rev. Rul. 81-303, 1981-51 I.R.B. 15.

Finland

166.2 Unified credit. The term "specific exemption" referred to in the estate tax convention between the United States and Finland may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Finland is entitled to only the $3,600 unified credit allowed under section 2102(c)(2) of the Code.

Rev. Rul. 81-303, 1981-51 I.R.B. 15.

Greece

166.3 Unified credit The term "specific exemption" referred to in the estate tax convention between the United States and Greece may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Greece is entitled to only the $3,600 unified credit allowed under section 2102(c)(2) of the Code.

Rev. Rul. 81-303, 1981-51 I.R.B. 15.

Italy

166.4 Unified credit. The term "specific exemption" referred to in the estate tax convention between the United States and Italy may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Italy is entitled to only the $3,600 unified credit allowed under section 2102(c)(2) of the Code.

Rev. Rul. 81-303, 1981-51 I.R.B. 15.

Japan

166.5 Unified credit. The term "specific exemption" referred to in the estate tax convention between the United States and Japan may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Japan is entitled to only the $3,600 unified credit allowed under section 2102(c)(2) of the Code.

Rev. Rul. 81-303, 1981-51 I.R.B. 15.

Norway

166.6 Unified credit. The term "specific exemption" referred to in the estate tax convention between the United States and Norway may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Norway is entitled to only the $3,600 unified credit allowed under section 2102(c)(2) of the Code.

Rev. Rul 81-303, 1981-51 I.R.B. 15.

Switzerland

166.7 Unified credit. The term "specific exemption" referred to in the estate tax convention between the United States and Switzerland may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Switzerland is entitled to only the $3,600 unified credit allowed under section 2102(c)(2) of the Code.

Rev. Rul. 81-303, 1981-51 I.R.B. 15.

Transfers

168.1 Life insurance; within 3 years of death; insured predeceased. The proceeds of an insurance policy on the life of another are includible in a decedent's gross estate if the decedent assigns that policy within three years of death and the insured predeceases the decedent. (Sec. 2035, '54 Code.)

Rev. Rul. 81-14, 1981-1 C.B. 456.

168.2 Stock transferred in trust; retained power. Prior to death, a taxpayer transferred nonvoting closely held corporate stock to a trust, retained the voting stock of the corporation, and retained control over the disposition of the nonvoting stock. The taxpayer did not retain the right to determine the income from the nonvoting stock or the persons who would enjoy the income therefrom, and the value of the nonvoting stock is not includible in the gross estate of the decedent. Rev. Rul. 67-54 revoked. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-15, 1981-1 C.B. 457.

168.3 Trust; contingent power to appoint successor trustee. Rev. Rul. 79-353, which holds that the value of property transferred to a trust is includible in the decedent-grantor's gross estate under sections 2036(a)(2) and 2038(a)(1) if the grantor retains the power to replace the trustee, will not be applied to a transfer or to an addition to a trust made before October 29, 1979, if the trust was irrevocable on October 28, 1979. Rev. Rul. 79-353 modified. §§20.2036-1, 20.2038-1, 301.7805-1. (Secs. 2036, 2038, 7805; '54 Code.)

Rev. Rul. 81-51, 1981-1 C.B. 458.

168.4 Trust; funded life insurance; balance at death. The decedent obtained a life insurance policy, the proceeds of which were payable to the decedent's estate to the extent of the policy's cash surrender value, less any outstanding indebtedness. The balance of the proceeds was payable to the trustee of an irrevocable funded insurance trust that was created by the decedent and owned the policy and paid that portion of the annual premium that exceeded the annual increase in the cash surrender value. The decedent transferred funds to the trust to enable the trustee to pay the trust portion of the premium. The balance of the funds initially deposited that remained in the trust at the time of the decedent's death is not includible in the gross estate under section 2036. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-164, 1981-1 C.B. 458.

168.5 Within 3 years of death; gift tax. The gift tax paid by the decedent on a gift made within 3 years of death is includible in the gross estate under section 2035(c) even though the gift is also includible under another section. §20.2036-1. (Secs. 2035, 2036; '54 Code.)

Rev. Rul. 81-229, 1981-40 I.R.B. 7.

168.6 Within 3 years of death; intrafamily loan. When an individual transfers cash to the individual's child within 3 years of death in exchange for a term promissory note having a fair market value less than the amount of the transferred cash, the amount includible is the difference between the amount of the loan and the fair market value of the note on the date of the gift. §§20.2033-1, 20.2043-1, 25.2512-8. (Secs. 2033, 2035, 2043, 2512; '54 Code.)

Rev. Rul. 81-286, 1981-49 I.R.B. 12.

168.7 Within 3 years of death; split gift. If a decedent's spouse dies after the decedent, and a gift that the decedent consented to split is includible in the spouse's estate, the decedent's estate is entitled to recompute its tax. §25.2513-1. (Secs. 2001, 2035, 2512; '54 Code.)

Rev. Rul. 81-85, 1981-1 C.B. 452.

168.8 Within 3 years of death; tenants by entirety. When the decedent and the decedent's spouse transfer joint tenancy property, as to which there was no election under section 2515(c), within 3 years of the decedent's death, one-half of the value of the property is includible in the decedent's gross estate under section 2035 and the other one-half of the value is reflected in the estate tax computation as an adjusted taxable gift under section 2001. Rev. Rul. 76-348 amplified. §25.2515-1. (Secs. 2001, 2035, 2515; '54 Code.)

Rev. Rul. 81-227, 1981-40 I.R.B. 6.

Trusts

170.1 Chartiable remainder; power of appointment; division of assets. Decedent was the beneficiary of a testamentary trust established under the will of her predeceased husband. The trust gave the decedent a power of appointment over the corpus of the property and provided that upon the death of the decedent, noncharitable beneficiaries would receive life income interest equal to 60% of the trust income and a charitable organization would receive an income interest equal to 40% of the trust income. After decedent's death, the trustee was informed that the estate would not be entitled to a charitable deduction under section 2055(a) of the Code because the trust did not comply with the restrictions contained in section 2055(e). The trustee, pursuant to specific authority in the trust instrument, segregated 40% of the trust assets and held this portion exclusively for the benefit of the charitable organization. *Held*, a wholly charitable trust was created for the purposes of section 2055(e)(3) and the estate is entitled to a charitable deduction for the value of the 40% portion. (Sec. 2055, '54 Code.)

Nancy F. Crafts, 74 T.C. 1439, Acq. in result, 1981-43 I.R.B. 5.

170.2 Transfers; contingent power to appoint successor trustee. Rev. Rul. 79-353, which holds that the value of property transferred to a trust is includible in the decedent-grantor's gross estate under sections 2036(a)(2) and 2038(a)(1) if the grantor retains the power to replace the trustee, will not be applied to a transfer or to an addition to a trust made before October 29, 1979, if the trust was irrevocable on October 28, 1979. Rev. Rul. 79-353 modified. §§20.2036-1, 20.2038-1, 301.7805-1. (Secs. 2036, 2038, 7805; '54 Code.)

Rev. Rul. 81-51, 1981-1 C.B. 458.

170.3 Transfers within 3 years of death; gift tax. The gift tax paid by the decedent on a gift made within 3 years of death is includible in the gross estate under section 2035(c) even though the gift is also includible under another section. §20.2036-1 (Secs. 2035, 2036; '54 Code.)

Rev. Rul. 81-229, 1981-40 I.R.B. 7.

Valuation

Alternate

172.1 Life estate; credit for tax on prior transfers. The executor of an estate elected alternate valuation. For purposes of calculating the credit for tax on prior transfers, the value of a life estate is based on the appropriate factor for the transferee's age on the date of the transferor's death, and the value of the trust's corpus is determined on the alternate valuation date. §§20.2013-4, 20.2031-10, 20.2032-1. (Secs. 2013, 2031, 2032; '54 Code.)

Rev. Rul. 81-118, 1981-1 C.B. 453.

Valuation

Farms and closely-held businesses

174.1 Election; written agreement. Guidelines are provided for the filing of a written agreement executed by all parties who have any interest in property that is being valued at its value as a farm or closely-held business rather than at its fair market value. §20.2032A-8. (Sec. 601.105, S.P.R.; Sec. 2032A, '54 Code.)

Rev. Proc. 81-14, 1981-1 C.B. 669.

174.2 Farms; gift made by qualified heir to family member. When a qualified heir, described in section 2032A(e), makes a gift of qualified real property to a family member who signs the agreement under section 2032A(d), the value of the gift is not reduced by the additional tax that could be subsequently imposed on the family member under section 2032A(c). §25.2512-1. (Secs. 2032A, 2512; '54 Code.)

Rev. Rul. 81-230, 1981-40 I.R.B. 8.

174.3 Farms; special use value; charitable remainder. A farm in which the decedent has transferred a life interest, in trust or otherwise, to a member of the decedent's family with the remainder interest in the property going to charity may not be valued under section 2032A. §§20.2032A-8, 20.2055-2. (Secs. 2032A, 2055; '54 Code.)

Rev. Rul. 81-220, 1981-39 I.R.B. 5.

174.4 Farms; special use value; interest rates. The interest rates to be used in computing the special use value of farm real property for which an election is made under section 2032A are listed for estates of decedents dying in the period 1977-1981. An example illustrates how the annual interest rates are calculated. Rev. Rul. 80-179 superseded. §20.2032A-4. (Sec. 2032A, '54 Code.)

Rev. Rul. 81-170, 1981-1 C.B. 454.

174.5 Farms; special use value; involuntarily convert property. In computing the duration of a decedent's ownership of farm property acquired after an involuntary conversion of other farm property, the duration of ownership of the original tracts is attributed to the replacement property on a proportionate basis. The property owned at death is replacement property to the extent attributable to reinvested condemnation proceeds. §20.2032A-3. (Sec. 2032A, '54 Code.)

Rev. Rul. 81-285, 1981-49 I.R.B. 11.

174.6 Farms; special use value; premature disposal; interest. When an election to specially value property has been made under section 2032A and the property is later disposed of prematurely, interest on the additional estate tax due will be assessed for the period commencing 6 months after the date of disposition. §§20.2032A-8, 20.6151-1, 301.6601-1. (Secs. 2032A, 6151, 6601; '54 Code.)

Rev. Rul. 81-308, 1981-52 I.R.B. 11.

174.7 Farms; special use value and eligible joint interest elections. The portion of an eligible joint interest includible in a decedent's gross estate under section 2040(c) is computed using the fair market value as the "value of such interest" under section 2040(c)(1)(A) even though the estate has elected the special use valuation for the interest under section 2032A. (Secs. 2040, 2032A, '54 Code.)

Rev. Rul. 81-146, 1981-1 C.B. 468.

174.8 Special use valuation; acknowledged child; Illinois. For purposes of electing special use valuation, an acknowledged child under Illinois law does not qualify as a legally adopted child within the meaning of section 2032A(e)(2). (Sec. 2032A, '54 Code.)

Rev. Rul. 81-179, 1981-27 I.R.B. 13.

174.9 Special use valuation; qualified heir; widow or widower of lineal descendant. For purposes of electing special use valuation, the widow or widower of the decedent's lineal descendant is a qualified heir. (Sec. 2032A, '54 Code.)

Rev. Rul. 81-236, 1981-41 I.R.B. 9.

General

176.1 Treasury bonds; redeemed to pay tax. Under section 2031, the value of the decedent's Treasury bonds that could have been applied toward the portion of the federal estate tax that was deferred under section 6166 is their par value. §§20.2031-2, 20.6161-1, 20.6163-1, 20.6166-1, 20.6166A-1. (Secs. 2031, 6161, 6163, 6166, 6166A; '54 Code.)

Rev. Rul. 81-228, 1981-40 I.R.B. 7.

GIFT TAX

Charitable, etc., transfers

204.1 Pledge of donor honored by third party. An individual made a binding pledge to a charitable organization that was honored by a third party. The individual is considered to have made a gift to the charity at the time the pledge became enforceable, and the third party made a gift to the individual at the time the pledge was honored. The individual is entitled to a charitable gift deduction, but the third party is not. §§25.2511-2, 25.2522(a)-1 (Secs. 2511, 2522; '54 Code.)

Rev. Rul. 81-110, 1981-1 C.B. 479.

Credits against tax

208.1 Unified credit; tax paid by donee. The gift tax liability assumed by the donee may be deducted from the value of transferred property if payment of tax by donee is a condition of the transfer. The donor's available unified credit is used to reduce the tax in determining the liability. §§25.2511-2, 25.2512-8. (Secs. 2505, 2511, 2512; '54 Code.)

Rev. Rul. 81-223, 1981-39 I.R.B. 6.

Exclusions

218.1 Death benefit. An employee entered into an employment contract in which the employer agreed to pay a death benefit of twice the annual salary at the time of death to the employee's surviving spouse, but only if the employee was still employed at the time of death. The death benefit was not funded. The employee made a gift of a present interest in the quarter in which death occurred—the time when the value of the death benefit became ascertainable—and the gift qualifies for the annual exclusion allowable under section 2503(b). §§25.2503-2, 25.2511-1, 25.2512-1. (Secs. 2503, 2511, 2512; '54 Code.)

Rev. Rul. 81-31, 1981-1 C.B. 475.

218.2 Trust; power to demand corpus; present v. future interest. A trust provision that gives a legally competent adult beneficiary the power to demand corpus does not qualify a transfer to the trust as a present interest eligible for the gift tax annual exclusion, if due to the donor's conduct, the beneficiary lacks knowledge of the power and does not have a reasonable opportunity to exercise it before it lapses. §25.2503-3. (Sec. 2503, '54 Code.)

Rev. Rul. 81-7, 1981-1 C.B. 474.

Gifts

222.1 Death benefit. An employee entered into an employment contract in which the employer agreed to pay a death benefit of twice the annual salary at the time of death to the employee's surviving spouse, but only if the employee was still employed at the time of death. The death benefit was not funded. The employee made a gift of a present interest in the quarter in which death occurred—the time when the value of the death benefit became ascertainable—and the gift qualifies for the annual exclusion allowable under section 2503(b). §§25.2503-2, 25.2511-1, 25.2512-1. (Secs. 2503, 2511, 2512; '54 Code.)

Rev. Rul. 81-31, 1981-1 C.B. 475.

222.2 Life insurance proceeds; transferred to trust created by insured; policy owned by trust beneficiary. An individual purchased and owned a life insurance policy on another's life and designated the trustee of a revocable trust created by the insured as beneficiary. When the insured dies and the policy proceeds become payable to the trustee, the individual, who will receive the income of the trust for life, will have made a completed gift. Further, if the individual does not relinquish the life interest in the trust, the portion of the trust

corpus attributable to the individual's contribution of the policy proceeds will be includible in the individual's gross estate at death. §§20.2036-1, 25.2501-1, 25.2511-1, 25.2511-2, 25.2512-9. (Secs. 2036, 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-166, 1981-1 C.B. 477.

222.3 Pledge of donor honored by third party. An individual made a binding pledge to a charitable organization that was honored by a third party. The individual is considered to have made a gift to the charity at the time the pledge became enforceable, and the third party made a gift to the individual at the time the pledge was honored. The individual is entitled to a charitable gift deduction, but the third party is not. §§25.2511-2, 25.2522(a)-1. (Secs. 2511, 2522; '54 Code.)

Rev. Rul. 81-110, 1981-1 C.B. 479.

222.4 Property transferred; additional estate tax. When a qualified heir, described in section 2032A(e), makes a gift of qualified real property to a family member who signs the agreement under section 2032A(d), the value of the gift is not reduced by the additional tax that could be subsequently imposed on the family member under section 2032A(c). §25.2512-1. (Secs. 2032A, 2512; '54 Code.)

Rev. Rul. 81-230, 1981-40 I.R.B. 8.

222.5 Running of statute of limitations on recovery of loan. An individual who permits the statute of limitatiions to run on recovery of a loan to a family member made a gift, where the debtor had some financial resources available to repay the loan. §25.2511-2. (Sec. 2511, '54 Code.)

Rev. Rul. 81-264, 1981-45 I.R.B. 12.

222.6 Split-dollar life insurance arrangement; transfer to trust; annual premiums. An employee, as the owner of an insurance policy held under a "split-dollar" arrangement, transferred the rights in the policy to a trust for the benefit of the employee's child. The value of the gift of the policy is the interpolated terminal reserve of the policy plus the proportionate part of the premiums paid before the date of the gift reduced by the value of the employer's interest in the policy. The employee's payment of the annual premiums after the transfer is also a gift. Further, the value of the life insurance provided by the employer, which is included in the employee's income, is deemed transferred to the trust. §§25.2511-1, 25.2512-6. (Secs. 2511, 2512; '54 Code.)

Rev. Rul. 81-198, 1981-32 I.R.B. 8.

222.7 Tax paid by donee; valuation. The gift tax liability assumed by the donee may be deducted from the value of transferred property if payment of tax by donee is a condition of the transfer. The donor's available unified credit is used to reduce the tax in determining the liability. §§25.2511-2, 25.2512-8. (Secs. 2505, 2511, 2512; '54 Code.)

Rev. Rul. 81-223, 1981-39 I.R.B. 6.

222.8 Transfer in trust; stock of DISC and continued contractural relationship. The tax consequences are discussed of (1) a gift by the shareholders of a manufacturing corporation of stock in a newly formed DISC to trusts for the benefit of their children and (2) a continued contractural relationship between their corporations, pursuant to which sales commissions are paid to the DISC in exchange for no significant services. §§25.2501-1, 25.2511-1, 25.2512-8. (Secs. 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-54, 1981-1 C.B. 476.

222.9 Transfers within 3 years of death; intrafamily loan. When an individual transfers cash to the individual's child within 3 years of death in exchange for a term promissory note having a fair market value less than the amount of the transferred cash, the amount includible is the difference between the amount of the loan and the fair market value of the note on the date of the gift. §§20.2033-1, 20.2043-1, 25.2512-8. (Secs. 2033, 2035, 2043, 2512; '54 Code.)

Rev. Rul. 81-286, 1981-49 I.R.B. 12.

Husband and wife

224.1 Split gifts; deaths of spouses within 3 years of gift. If a decedent's spouse dies after the decedent, and a gift that the decedent consented to split is includible in the spouse's estate, the decedent's estate is entitled to recompute its tax. §25.2513-1. (Secs. 2001, 2035, 2512; '54 Code.)

Rev. Rul. 81-85, 1981-1 C.B. 452.

224.2 Tenants by entirety; transfers within 3 years of death. When the decedent and the decedent's spouse transfer joint tenancy property, as to which there was no election under section 2515(c), within 3 years of the decedent's death, one-half of the value of the property is includible in the decedent's gross estate under section 2035 and the other one-half of the value is reflected in the estate tax computation as an adjusted taxable gift under section 2001. Rev. Rul. 76-348 amplified. §25.2515-1. (Secs. 2001, 2035, 2515; '54 Code.)

Rev. Rul. 81-227, 1981-40 I.R.B. 6.

Life insurance

228.1 Proceeds; transferred to trust; policy owned by trust beneficiary. An individual purchased and owned a life insurance policy on another's life and designated the trustee of a revocable trust created by the insured as beneficiary. When the insured dies and the policy proceeds become payable to the trustee, the individual, who will receive the income of the trust for life, will have made a completed gift. Further, if the individual does not relinquish the life interest in the trust, the portion of the trust corpus attributable to the individual's contribution of the policy proceeds will be includible in the individual's gross estate at death. §§20.2036-1, 25.2501-2, 25.2511-1, 25.2511-2, 25.2512-9. (Secs. 2036, 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-166, 1981-1 C.B. 477.

228.2 Split-dollar; transfer to trust. An employee, as the owner of an insurance policy held under a "split-dollar" arrangement, transferred the rights in the policy to a trust for the benefit of the employee's child. The value of the gift of the policy is the interpolated terminal reserve of the policy plus the proportionate part of the premiums paid before the date of the gift reduced by the value of the employer's interest in the policy. The employee's payment of the annual premiums after the transfer is also a gift. Further, the value of the life insurance provided by the employer, which is included in the employee's income, is deemed transferred to the trust. §§25.2511-1, 25.2512-6. (Secs. 2511, 2512; '54 Code.)

Rev. Rul. 81-198, 1981-32 I.R.B. 8.

Property

Interests

238.1 Present; death benefit. An employee entered into an employment contract in which the employer agreed to pay a death benefit of twice the annual salary at the time of death to the employee's surviving spouse, but only if the employee was still employed at the time of death. The death benefit was not funded. The employee made a gift of a present interest in the quarter in which death occurred—the time when the value of the death benefit became ascertainable—and the gift qualifies for the annual exclusion allowable under section 2503(b). §§25.2503-2, 25.2511-1, 25.2512-1. (Secs. 2503, 2511, 2512; '54 Code.)

Rev. Rul. 81-31, 1981-1 C.B. 475.

238.2 Present v. future; power to demand trust corpus. A trust provision that gives a legally competent adult beneficiary the power to demand corpus does not qualify a transfer to the trust as a present interest eligible for the gift tax annual exclusion, if due to the donor's conduct, the beneficiary lacks knowledge of the power and does not have a reasonable opportunity to exercise it before it lapses. §25.2503-3. (Sec. 2503, '54 Code.)

Rev. Rul. 81-7, 1981-1 C.B. 474.

Transfers

250.1 Completed gift; death benefit. An employee entered into an employment contract in which the employer agreed to pay a death benefit of twice the annual salary at the time of death to the employee's surviving spouse, but only if the employee was still employed at the time of death. The death benefit was not funded. The employee made a gift of a present interest in the quarter in which death occurred—the time when the value of the death benefit became ascertainable—and the gift qualifies for the annual exclusion allowable under section 2503(b). §§25.2503-2, 25.2511-1, 25.2512-1. (Secs. 2503, 2511, 2512; '54 Code.)

Rev. Rul. 81-31, 1981-1 C.B. 475.

250.2 Life insurance; split-dollar; annual premiums. An employee, as the owner of an insurance policy held under a "split-dollar" arrangement, transferred the rights in the policy to a trust for the benefit of the employee's child. The value of the gift of the policy is the interpolated terminal reserve of the policy plus the proportionate part of the premiums paid before the date of the gift reduced by the value of the employer's interest in the policy. The employee's payment of the annual premiums after the transfer is also a gift. Further, the value of the life insurnce provided by the employer, which is included in the employee's income, is deemed transferred to the trust. §§25.2511-1, 25.2512-6. (Secs. 2511, 2512; '54 Code.)

Rev. Rul. 81-198, 1981-32 I.R.B. 8.

250.3 Pledge of donor honored by third party. An individual made a binding pledge to a charitable organization that was honored by a third party. The individual is considered to have made a gift to the charity at the time the pledge became enforceable, and the third party made a gift to the individual at the time the pledge was honored. The individual is entitled to a charitable gift deduction, but the third party is not. §§25.2511-2, 25.2522(a)-1. (Secs. 2511, 2522; '54 Code.)

Rev. Rul. 81-110, 1981-1 C.B. 479.

250.4 Running of statute of limitations on recovery of loan. An individual who permits the statute of limitations to run on recovery of a loan to a family member made a gift, where the debtor had some financial resources available to repay the loan. §25.2511-2. (Sec. 2511, '54 Code.)

Rev. Rul. 81-264, 1981-45 I.R.B. 12.

250.5 Stock of DISC and continued contractual relationship. The tax consequences are discussed of (1) a gift by the shareholders of a manufacturing corporation of stock in a newly formed DISC to trusts for the benefit of their children and (2) a continued contractural relationship between their corporations, pursuant to which sales commissions are paid to the DISC in exchange for no significant services. §§25.2501-1, 25.2511-1, 25.2512-8. (Secs. 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-54, 1981-1 C.B. 476.

250.6 Tax paid by donee; valuation. The gift tax liability assumed by the donee may be deducted from the value of transferred property if payment of tax by donee is a condition of the transfer. The donor's available unified credit is used to reduce the tax in determining the liability. §§25.2511-2, 25.2512-8. (Secs. 2505, 2511, 2512; '54 Code.)

Rev. Rul. 81-223, 1981-39 I.R.B. 6.

Trusts

252.1 Power to demand corpus; present v. future interest. A trust provision that gives a legally competent adult beneficiary the power to demand corpus does not qualify a transfer to the trust

as a present interest eligible for the gift tax annual exclusion, if due to the donor's conduct, the beneficiary lacks knowledge of the power and does not have a reasonable opportunity to exercise it before it lapses. §25.2503-3. (Sec. 2503, '54 Code.)
Rev. Rul. 81-7, 1981-1 C.B. 474.

Valuation

254.1 Property transferred; additional estate tax. When a qualified heir, described in section 2032A(e), makes a gift of qualified real property to a family member who signs the agreement under section 2032A(d), the value of the gift is not reduced by the additional tax that could be subsequently imposed on the family member under section 2032A(c). §25.2512-1. (Secs. 2032A, 2512; '54 Code.)
Rev. Rul. 81-230, 1981-40 I.R.B. 8.

254.2 Split-dollar life insurance; transfer to trust. An employee, as the owner of an insurance policy held under a "split-dollar" arrangement, transferred the rights in the policy to a trust for the benefit of the employee's child. The value of the gift of the policy is the interpolated terminal reserve of the policy plus the proportionate part of the premiums paid before the date of the gift reduced by the value of the employer's interest in the policy. The employee's payment of the annual premiums after the transfer is also a gift. Further, the value of the life insurance provided by the employer, which is included in the employee's income, is deemed transferred to the trust. §§25.2511-1, 25.2512-6. (Secs. 2511, 2512; '54 Code.)
Rev. Rul. 81-198, 1981-32 I.R.B. 8.

254.3 Stock; intrafamily transfers; minority discounts. Simultaneous gifts of one-third of the stock of a family controlled corporation to each of the donor's three children are not valued as minority interests. §25.2512-1. (Sec. 2512, '54 Code.)
Rev. Rul. 81-253, 1981-43 I.R.B. 10.

254.4 Tax paid by donee. The gift tax liability assumed by the donee may be deducted from the value of transferred property if payment of tax by donee is a condition of the transfer. The donor's available unified credit is used to reduce the tax in determining the liability. §§25.2511-2, 25.2512-8. (Secs. 2505, 2511, 2512; '54 Code.)
Rev. Rul. 81-223, 1981-39 I.R.B. 6.

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Index - Digest
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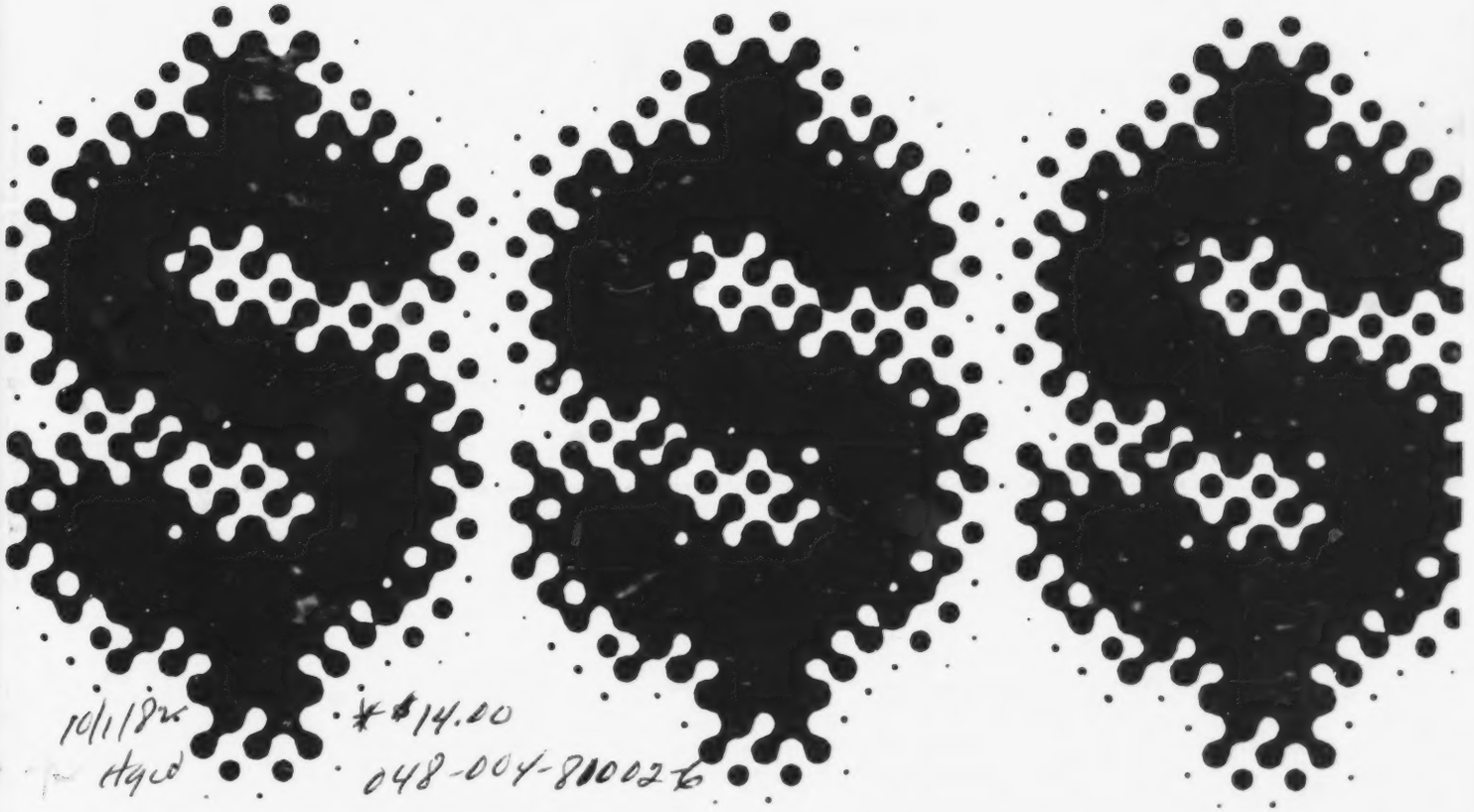

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Finding Lists for Revenue Rulings, Revenue Procedures and other Items except Public Laws, Treasury Decisions, and Tax Conventions

Internal Revenue Code of 1954

Sec. 2001
Rev. Rul. 81-85, 60.6
Rev. Rul. 81-227, 134.8

Sec. 2011
Acq., 69 T.C. 942, 164.2
Acq., 69 T.C. 942, 118.5
§20.2011-1
Rev. Rul. 81-302, 118.5
Rev. Rul. 81-302, 164.2
Rev. Rul. 82-35, 118.4

Sec. 2013
§20.2013-4
Rev. Rul. 81-118, 118.3

Sec. 2014
§20.2014-1
Rev. Rul. 82-82, 118.1

Sec. 2031
§20.2031-2
Rev. Rul. 81-228, 176.3
Rev. Rul. 82-85, 176.1
§20.2031-10
Rev. Rul. 81-118, 172.1

Sec. 2032
§20.2032-1
Rev. Rul 81-118, 172.1
Rev. Rul. 82-23, 172.2

Sec. 2032A
Rev. Rul. 81-146, 174.9
Rev. Rul. 81-179, 174.12
Rev. Rul. 81-230, 174.2
Rev. Rul. 81-236, 174.13
Rev. Rul. 82-35, 174.8
§20.2032A-1
Rev. Rul. 82-62, 174.11
§20.2032A-3
Rev. Rul. 81-285, 174.6
§20.2032A-4
Rev. Rul. 81-170, 174.5
Rev. Rul. 82-104, 174.4
§20.2032A-8
Rev. Proc. 81-14, 174.1
Rev. Proc. 82-9, 174.10
Rev. Rul. 81-220, 174.3
Rev. Rul. 81-308, 174.7

Sec. 2033
Acq., 69 T.C. 942, 140.6
§20.2033-1
Rev. Rul. 81-63, 140.7
Rev. Rul. 81-182, 140.9
Rev. Rul. 81-286, 134.6
Rev. Rul. 81-302, 140.6
Rev. Rul. 82-5, 140.8
Rev. Rul. 82-24, 140.5
Rev. Rul. 82-85, 134.1

Sec. 2035
Rev. Rul. 81-14, 168.4
Rev. Rul. 81-85, 168.11
Rev. Rul. 81-227, 168.12
Rev. Rul. 81-229, 168.9
Rev. Rul. 81-286, 168.10
Rev. Rul. 82-13, 168.3

Sec. 2036
§20.2036-1
Rev. Rul. 81-15, 160.2
Rev. Rul. 81-51, 168.6
Rev. Rul. 81-164, 168.7
Rev. Rul. 81-166, 134.2
Rev. Rul. 81-221, 116.1
Rev. Rul. 81-229, 170.7
Rev. Rul. 82-105, 168.1

Sec. 2037
§20.2037-1
Rev. Rul. 82-24, 176.2

Sec. 2038
§20.2038-1
Rev. Rul. 81-51, 168.6

Sec. 2039
§20.2039-1
Rev. Rul. 81-182, 106.1

Sec. 2040
Rev. Rul. 81-146, 140.2
§20.2040-1
Rev. Rul. 81-183, 140.4
Rev. Rul. 81-184, 140.3

Sec. 2041
§20.2041-1
Rev. Rul. 82-63, 154.1

Sec. 2042
Acq. in result, 73 T.C. 307, 142.4
§20.2042-1
Rev. Rul. 81-128, 142.3
Rev. Rul. 82-5, 142.5
Rev. Rul. 82-85, 142.1

Sec. 2043
§20.2043-1
Rev. Rul. 81-286, 168.10

Sec. 2053
Acq., 76 T.C. 369, 102.4
§20.2053-3
Rev. Proc. 81-27, 52.6
Rev. Rul. 81-154, 102.1
Rev. Rul. 81-256, 102.3
Rev. Rul. 81-287, 102.2
§20.2053-6
Rev. Rul. 82-82, 164.1
§20.2053-7
Rev. Rul. 81-183, 114.4
Rev. Rul. 81-184, 114.3

Sec. 2055
Acq. in result, 74 T.C. 1439, 112.5
§20.2055-1
Rev. Rul. 82-6, 112.1
§20.2055-2
Rev. Rul. 81-20, 112.3
Rev. Rul. 81-220, 112.2
Rev. Rul. 82-97, 112.4

Sec. 2056
Acq., 66 T.C. 415, 146.1
Acq., 72 T.C. 73, 146.1
§20.2056(b)-1
Rev. Rul. 82-23, 146.1
§20.2056(b)-4
Rev. Rul. 81-165, 146.2

Sec. 2102
Rev. Rul. 81-303, 118.6

Sec. 2501
§25.2501-1
Rev. Rul. 81-54, 222.9
Rev. Rul. 81-166, 222.2

Sec. 2503
§25.2503-1
Rev. Rul. 82-98, 222.3
§25.2503-2
Rev. Rul. 81-31, 218.1
§25.2503-3
Rev. Rul. 81-7, 218.3

Sec. 2505
Rev. Rul. 81-223, 208.1

Sec. 2511
§25.2511-1
Ct. D. 2012, 250.8
Rev. Rul. 81-31, 250.1
Rev. Rul. 81-54, 250.6
Rev. Rul. 81-166, 222.2
Rev. Rul. 81-198, 250.2
§25.2511-2
Rev. Rul. 81-110, 250.4
Rev. Rul. 81-166, 222.2
Rev. Rul. 81-223, 250.7
Rev. Rul. 81-264, 222.6

Sec. 2512
§25.2512-1
Rev. Rul. 81-31, 238.1
Rev. Rul. 81-166, 222.2
Rev. Rul. 81-230, 254.1
Rev. Rul. 81-253, 254.3
§25.2512-6
Rev. Rul. 81-198, 254.2
§25.2512-8
Rev. Rul. 81-54, 250.6
Rev. Rul. 81-223, 254.4
Rev. Rul. 81-286, 222.11
Rev. Rul. 82-98, 222.3
§25.2512-9
Rev. Rul. 81-166, 222.2

Sec. 2513
§25.2513-1
Rev. Rul. 81-85, 224.1

Sec. 2515
§25.2515-1
Rev. Rul. 81-227, 224.2

Sec. 2522
§25.2522(a)-1
Rev. Rul. 81-110, 204.1

Sec. 2601
§26.2601-1
Rev. Rul. 82-36, 168.2

Sec. 6075
§20.6075-1
Rev. Rul. 81-237, 64.2
§25.6075-1
Rev. Rul. 81-237, 64.2

Sec. 6081
§20.6081-1
Rev. Rul. 81-189, 28.1
Rev. Rul. 81-237, 28.7
§25.6081-1
Rev. Rul. 81-189, 28.1
Rev. Rul. 81-237, 28.7

Sec. 6151
§20.6151-1
Rev. Rul. 81-189, 28.1
Rev. Rul. 81-237, 28.7
Rev. Rul. 81-308, 52.2
§25.6151-1
Rev. Rul. 81-189, 28.1
Rev. Rul. 81-237, 28.7

Sec. 6161
§20.6161-1
Rev. Rul. 81-228, 28.6
§25.6161-1
Rev. Rul. 81-237, 28.7

Sec. 6163
§20.6163-1
Rev. Rul. 81-228, 28.6

Sec. 6166
Rev. Rul. 81-287, 28.5
§20.6166-1
Rev. Proc. 81-27, 52.6
Rev. Rul. 81-228, 28.6
Rev. Rul. 81-294, 52.5
Rev. Rul. 82-6, 52.4
Rev. Rul. 82-120, 52.3

Sec. 6166A
Rev. Rul. 81-287, 28.5
§20.6166A-1
Rev. Proc. 81-27, 52.6
Rev. Rul. 81-228, 28.6
Rev. Rul. 81-294, 52.5
Rev. Rul. 82-6, 52.4

Sec. 6324B
Rev. Rul. 82-35, 42.1

Sec. 6401
§301.6401-1
Rev. Rul. 81-189, 50.2

Sec. 6402
§301.6402-1
Rev. Rul. 81-294, 60.3
§301.6402-2
Rev. Proc. 81-18, 60.1

Sec. 6403
§301.6403-1
Rev. Rul. 81-294, 60.3

Sec. 6501
Rev. Rul. 81-287, 44.2

Sec. 6511
§301.6511(a)-1
Rev. Rul. 81-263, 44.1
Rev. Rul. 81-263, 118.2

Sec. 6601
§301.6601-1
Rev. Rule. 81-154, 102.1
Rev. Rul. 81-308, 24.2

Sec. 6611
§301.6611-1
Rev. Rul. 81-189, 60.5

Sec. 6621
§301.6621-1
Rev. Rul. 81-260, 24.1

Sec. 6651
§301.6651-1
Rev. Rul. 81-154, 102.1
Rev. Rul. 81-237, 54.1

Sec. 7605
§301.7605-1
Rev. Proc. 81-35, 64.3

Sec. 7805
§301.7805-1
Rev. Rul. 81-51, 168.6
Rev. Rul. 82-127, 66.3

Statement of Procedural Rules

601.105
Rev. Proc. 81-14, 26.2
Rev. Proc. 81-17, 64.1
Rev. Proc. 81-18, 60.1
Rev. Proc. 81-27, 52.6
Rev. Proc. 81-35, 64.3
Rev. Proc. 81-46, 14.1
Rev. Proc. 82-9, 174.10
Rev. Proc. 82-38, 66.4
601.201
Rev. Proc. 82-22, 66.1
Rev. Proc. 82-37, 16.1
601.502
Rev. Proc. 81-38, 8.1
601.602
Rev. Proc. 81-47, 30.1

Decisions of the Supreme Court

Jewett
Ct. D. 2012, 250.8

Decisions of the Tax Court

Crafts, Nancy F.
74 T.C. 1439, Acq. in result, 112.5
Gamble, George E.P.
69 T.C. 942, Acq., 140.6
Meeske, Fritz L.
72 T.C. 73, Acq., 146.1
Reilly, Peter W.
76 T.C. 369, Acq., 102.4
Smith, Charles W.
66 T.C. 415, Acq., 146.1
Smith, John
73 T.C. 307, Acq. in result, 142.4

Revenue Rulings and Revenue Procedures under Tax Conventions

Australia
Rev. Rul. 81-303, 166.1
Finland
Rev. Rul. 81-303, 166.2

Greece
Rev. Rul. 81-303, 166.3
Italy
Rev. Rul. 81-303, 166.4
Japan
Rev. Rul. 81-303, 166.5
Norway
Rev. Rul. 81-303, 166.6
Switzerland
Rev. Rul. 81-303, 166.7

Miscellaneous Items Published in the Internal Revenue Bulletin

Del. Order 4 (Rev. 13), 2.2
Del. Order 5 (Rev. 10), 2.2
Del. Order 11 (Rev. 13), 2.2
Del. Order 42 (Rev. 16), 2.2
Del. Order 57 (Rev. 5), 2.2
Del. Order 67 (Rev. 15), 2.2
Del. Order 77 (Rev. 15), 2.2
Del. Order 96 (Rev. 6), 2.2
Del. Order 97 (Rev. 19), 2.2
Del. Order 100 (Rev. 3), 2.2
Del. Order 114 (Rev. 3), 2.2
Del. Order 116 (Rev. 5), 2.2
Del. Order 136 (Rev. 4), 2.2
Del. Order 144 (Rev. 1), 2.2
Del. Order 154 (Rev. 1), 2.2
Del. Order 155 (Rev. 1), 2.2
Del. Order 156 (Rev. 2), 2.2
Del. Order 156 (Rev. 2), Amend. 1, 2.2
Del. Order 157 (Rev. 3), 2.2
Del. Order 160 (Rev. 3), 2.2
Del. Order 165 (Rev. 3), 2.2
Del. Order 190, 2.2
Del. Order 191, 2.2
Treas. Dept. Order 111-2, 2.1
Treas. Dept. Order 150-93, 2.4
Treas. Dept. Order 150-95, 2.6
Treas. Dept. Order 150-96, 2.3

Listing of Revenue Rulings and Revenue Procedures

Revenue Procedures
Rev. Proc. 81-14, 26.2
Rev. Proc. 81-17, 10.1
Rev. Proc. 81-18, 60.1
Rev. Proc. 81-27, 52.6
Rev. Proc. 81-35, 2.5
Rev. Proc. 81-38, 8.1
Rev. Proc. 81-46, 14.1
Rev. Proc. 81-47, 30.1
Rev. Proc. 82-9, 174.10
Rev. Proc. 82-22, 66.1
Rev. Proc. 82-37, 66.2
Rev. Proc. 82-38, 66.4

Revenue Rulings
Rev. Rul. 81-7, 218.3
Rev. Rul. 81-14, 168.4
Rev. Rul. 81-15, 168.5
Rev. Rul. 81-20, 112.3
Rev. Rul. 81-31, 238.1
Rev. Rul. 81-51, 168.6
Rev. Rul. 81-54, 250.6
Rev. Rul. 81-63, 134.4
Rev. Rul. 81-85, 60.6
Rev. Rul. 81-110, 222.4
Rev. Rul. 81-118, 118.3
Rev. Rul. 81-128, 142.3
Rev. Rul. 81-146, 174.9
Rev. Rul. 81-154, 102.1
Rev. Rul. 81-164, 168.7
Rev. Rul. 81-165, 146.2
Rev. Rul. 81-166, 134.2
Rev. Rul. 81-170, 174.5
Rev. Rul. 81-179, 174.12
Rev. Rul. 81-182, 106.1
Rev. Rul. 81-183, 140.4
Rev. Rul. 81-184, 140.3
Rev. Rul. 81-189, 50.2
Rev. Rul. 81-198, 254.2
Rev. Rul. 81-220, 112.2
Rev. Rul. 81-221, 140.1
Rev. Rul. 81-223, 254.4
Rev. Rul. 81-227, 168.12
Rev. Rul. 81-228, 160.3
Rev. Rul. 81-229, 168.9
Rev. Rul. 81-230, 254.1
Rev. Rul. 81-236, 174.13
Rev. Rul. 81-237, 54.1
Rev. Rul. 81-253, 254.3
Rev. Rul. 81-256, 102.3
Rev. Rul. 81-260, 50.1
Rev. Rul. 81-263, 118.2
Rev. Rul. 81-264, 250.5
Rev. Rul. 81-285, 174.6
Rev. Rul. 81-286, 168.10
Rev. Rul. 81-287, 102.2
Rev. Rul. 81-294, 52.5
Rev. Rul. 81-302, 114.5
Rev. Rul. 81-303, 118.6
Rev. Rul. 81-308, 174.7
Rev. Rul. 82-5, 140.8
Rev. Rul. 82-6, 112.1
Rev. Rul. 82-13, 168.3
Rev. Rul. 82-23, 146.1
Rev. Rul. 82-24, 176.2
Rev. Rul. 82-35, 174.8
Rev. Rul. 82-36, 168.2
Rev. Rul. 82-62, 174.11
Rev. Rul. 82-63, 154.1
Rev. Rul. 82-82, 118.1
Rev. Rul. 82-85, 142.1
Rev. Rul. 82-97, 112.4
Rev. Rul. 82-98, 222.3
Rev. Rul. 82-104, 174.4
Rev. Rul. 82-105, 170.3
Rev. Rul. 82-120, 52.3
Rev. Rul. 82-127, 66.3

Actions on Previously Published Revenue Rulings and Revenue Procedures

Revenue Procedures

68-20
Modified and superseded by
Rev. Proc. 81-38, 1981-2 C.B. 592

74-5
Superseded by
Rev. Proc. 81-35, 1981-2 C.B. 588

76-43
Superseded by
Rev. Proc. 81-46, 1981-2 C.B. 621

80-20
Modified, clarified and amplified by
Rev. Proc. 81-33, 1981-2 C.B. 564
Superseded by
Rev. Proc. 82-37, 1982-26 I.R.B. 11

80-21
Modified, clarified and amplified by
Rev. Proc. 81-33, 1981-2 C.B. 564
Superseded by
Rev. Proc. 82-38, 1982-26 I.R.B. 33

80-43
Superseded by
Rev. Proc. 81-47, 1981-2 C.B. 622

80-47
Superseded by
Rev. Proc. 82-3, 1982-3 I.R.B. 10

80-48
Superseded by
Rev. Proc. 82-4, 1982-3 I.R.B. 22

80-82
Superseded by
Rev. Proc. 81-10, 1981-1 C.B. 647

81-10
Amplified by
Rev. Proc. 81-37, 1981-2 C.B. 592
Amplified by
Rev. Proc. 82-11, 1982-8 I.R.B. 16
Superseded by
Rev. Poc. 82-22, 1982-13 I.R.B. 16

81-33
Superseded in part by
Rev. Proc. 82-37, 1982-26 I.R.B. 11
Superseded by
Rev. Proc. 82-38, 1982-26 I.R.B. 23

81-37
Superseded by
Rev. Proc. 82-22, 1982-13 I.R.B. 16

82-11
Superseded by
Rev. Proc. 82-22, 1982-13, I.R.B. 16

Revenue Rulings

54-92
Obsoleted by
Rev. Rul. 82-127, 1982-26 I.R.B. 9

54-343
Amplified by
Rev. Rul. 82-98, 1982-20 I.R.B. 10

56-568
Superseded by
Rev. Rul. 81-263, 1981-2 C.B. 169

67-54
Revoked by
Rev. Rul. 81-15, 1981-1 C.B. 457

71-355
Revoked by
Rev. Rul. 81-302, 1981-2 C.B. 170

73-612
Amplified by
Rev. Rul. 82-98, 1982-20 I.R.B. 10

75-63
Revoked by
Rev. Rul. 81-302, 1981-2 C.B. 170

75-504
Revoked by
Rev. Rul. 81-221, 1981-2 C.B. 178

76-348
Amplified by
Rev. Rul. 81-227, 1981-2 C.B. 168

76-545
Clarified by
Rev. Rul. 82-97, 1982-20 I.R.B. 9

79-353
Modified by
Rev. Rul. 81-51, 1981-1 C.B. 458

80-179
Superseded by
Rev. Rul. 81-170, 1981-1 C.B. 589

Finding Lists for Public Laws and Treasury Decisions

Internal Revenue Code of 1954

Sec. 2001
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2010
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2011
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2012
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2032A
Pub.L. 97-34, 1981-2 C.B. 258

§20.2032A-3
T.D. 7786, 1981-2 C.B. 174

§20.2032A-8
T.D. 7786, 1981-2 C.B. 174

§22.0
T.D. 7793, 1981-2 C.B. 63

Sec. 2035
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2039
Pub.L. 97-34, 1981-2 C.B. 256

§20.2039-2
T.D. 7761, 1981-1 C.B. 459

§20.2039-3
T.D. 7761, 1981-1 C.B. 459

§20.2039-4
T.D. 7761, 1981-1 C.B. 459

§20.2039-5
T.D. 7761, 1981-1 C.B. 459

Sec. 2040
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2044
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2045
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2046
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2055
Pub.L. 96-605, 1980-2 C.B. 702
Pub.L. 97-34, 1981-2 C.B. 256
Pub.L. 97-35, 1981-2 C.B. 528

Sec. 2056
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2057
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2204
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2207A
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2501
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2502
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2503
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2504
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2505
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2512
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2513
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2514
§25.2514-1
T.D. 7757, 1981-1 C.B. 576
§25.2514-3
T.D. 7776, 1981-1 C.B. 478

Sec. 2515
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2515A
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2517
Pub.L. 97-34, 1981-2 C.B. 256
§25.2517-1
T.D. 7761, 1981-1 C.B. 459

Sec. 2518
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2519
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2522
Pub.L. 97-34, 1981-2 C.B. 256
Pub.L. 97-35, 1981-2 C.B. 528

Sec. 2523
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2601
§26.2601-1
T.D. 7812, 1982-14 I.R.B. 15

Sec. 2602
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 2621
Pub.L. 97-34, 1981-2 C.B. 256
§26a.2621-1
T.D. 7769, 1981-1 C.B. 480
T.D. 7792, 1981-2 C.B. 190

Sec. 6018
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6019
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6075
Pub.L. 97-34, 1981-2 C.B. 256
§25.6075-1
T.D. 7757, 1981-1 C.B. 576

Sec. 6103
Pub.L. 96-598, 1980-2 C.B. 661
Pub.L. 97-34, 1981-2 C.B. 256
§301.6103(l)(2)-3
T.D. 7757, 1981-1 C.B. 576

Sec. 6110
Pub.L. 97-164, 1982-24 I.R.B. 47

Sec. 6155
Pub.L. 96-589, 1980-2 C.B. 607

Sec. 6161
Pub.L. 96-589, 1980-2 C.B. 607
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6166
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6166A
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6212
Pub.L. 96-589, 1980-2 C.B. 607
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6213
Pub.L. 96-589, 1980-2 C.B. 607

Sec. 6324A
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6324B
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6503
Pub.L. 96-589, 1980-2 C.B. 607
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6532
Pub.L. 96-589, 1980-2 C.B. 607

Sec. 6621
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6652
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6653
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6656
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6658
Pub.L. 96-589, 1980-2 C.B. 607

Sec. 6659
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 6871
Pub.L. 96-589, 1980-2 C.B. 607

Sec. 7403
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 7422
Pub. L. 97-164, 1982-24 I.R.B. 47

Sec. 7451
Pub.L. 97-34, 1981-2 C.B. 256

Sec. 7456
Pub.L. 97-164, 1982-24 I.R.B. 47

Sec. 7482
Pub.L. 97-164, 1982-24 I.R.B. 47

Sec. 7508
Pub.L. 96-589, 1980-2 C.B. 607

Sec. 7517
§301.7517-1
T.D. 7757, 1981-1 C.B. 576

Statement of Procedural Rules

601.102
1981-1 C.B. 695

601.103
1981-1 C.B. 695

601.105
1981-1 C.B. 695

601.106
1981-1 C.B. 695

601.201
1981-1 C.B. 695

601.203
1981-1 C.B. 695

601.506
1981-1 C.B. 695

601.602
1981-1 C.B. 695

Public Laws Published in the Bulletin

96-589 (H.R. 8200) 1980-2 C.B. 607
(Bankruptcy Tax Act of 1980)
S. Rept. 96-1035, 1980-2 C.B. 620
96-598 (H.R. 3317), 1980-2 C.B. 661
S. Rept. 96-898, 1980-2 C.B. 663
96-605 (H.R. 7956), 1980-2 C.B. 702
(Miscellaneous Revenue Act of 1980)
H. Rept. 96-1278, 1980-2 C.B. 709
S. Rept. 96-1036, 1980-2 C.B. 723
97-34 (H.R. 4242), 1981-2 C.B. 256
(Economic Recovery Tax Act of 1981)
H. Rept. 97-201, 1981-2 C.B. 352
S. Rept. 97-144, 1981-2 C.B. 412
Conf. Rept. 97-215, 1981-2 C.B. 481
97-35 (H.R. 3982), 1981-2 C.B. 528
(Omnibus Budget Reconciliation Act of 1981)
H. Rept. 97-158 Vol. I, 1981-2 C.B. 535
97-164, (H.R. 4482), 1982-24 I.R.B. 47
(Federal Courts Improvement Act of 1982)
H. Rept. 97-312, 1982-24 I.R.B. 51

Digests of Revenue Rulings, Revenue Procedures, and other published items except Public Laws, Treasury Decisions, and Tax Conventions

ADMINISTRATIVE

Administration

2.1 Assistant Secretary (Tax Policy); final determination. The authority to make final determinations on issues of tax policy is delegated to the Assistant Secretary (Tax Policy). Treas. Dept. Orders 150-41 and 170-3 superseded.

Treas. Dept. Order No. 111-2, 1981-1 C.B. 698.

2.2 Delegations of authority. The following documents deal with delegations of authority with respect to the Service:

Del. Order—Citation—Subject

4 (Rev. 13), 1982-21 I.R.B. 9, Summonses.

5 (Rev. 10), 1982-21 I.R.B. 10, Emergency succession to Commissioner.

11 (Rev. 13), 1982-21 I.R.B. 11, Offers in compromise.

42 (Rev. 16), 1982-20 I.R.B. 12, Consent fixing period of limitations.

57 (Rev. 5), 1982-20 I.R.B. 12, Notice of additional inspection of books.

67 (Rev. 15), 1981-1 C.B. 609. Signing for Acting Commissioner.

77 (Rev. 15), 1982-20 I.R.B. 12, Deficiency notices.

96 (Rev. 6), 1982-20 I.R.B. 13, Rulings; revocation of determination letters; retroactively.

97 (Rev. 19), 1982-22 I.R.B. 13, Closing agreements.

100 (Rev. 3), 1982-22 I.R.B. 14, Furnishing special statistical studies.

114 (Rev. 3), 1982-23 I.R.B. 58, Tax treaties; competent or taxation authority.

116 (Rev. 5), 1982-23 I.R.B. 58, Extention of time; estate tax returns.

136 (Rev. 4), 1982-23 I.R.B. 59, Signing of agreements regarding charitable deductions.

144 (Rev. 1), 1982-24 I.R.B. 59, Transfer certificates.

154 (Rev. 1), 1982-24 I.R.B. 59, Decision on reports of refunds and credits to Joint Committee.

155 (Rev. 1), 1982-24 I.R.B. 59, Settlement recommendation letters; Department of Justice.

156 (Rev. 2), 1982-25 I.R.B. 9, Disclosure of returns and return information.

156 (Rev. 2) Amend. 1, 1982-25 I.R.B. 15, Disclosure of returns and return information.

157 (Rev. 3), 1982-25 I.R.B. 16, Seizure and forfeiture of personal property.

160 (Rev. 3), 1982-25 I.R.B. 16, Termination and jeopardy assessments.

165 (Rev. 3), 1981-1 C.B. 610. Appeals; Freedom of Information Act.

190, 1982-17 I.R.B. 13, Transfer of Technical Appeals functions to Chief Counsel.

191, 1982-14 I.R.B. 17, Levy on property in hands of third parties.

2.3 Internal Revenue Districts; Foreign Operations; created The Foreign Operations Internal Revenue District has been created to replace the Office of International Operations, Internal Revenue Service.

Treas. Dept. Order 150-96, 1982-17 I.R.B. 20.

2.4 Office of Industrial Economics; transferred. The functions of the Office of Industrial Economics is transferred from the Office of Assistant Secretary (Tax Policy) to the Commissioner of the Internal Revenue Service. Treas. Dept. Order 175-5 superseded and Treas Dept. Order 111-1 recinded.

Treas. Dept. Order 150-93, 1981-2 C.B. 732.

2.5 Reopening closed cases. Rules are set forth governing the reopening of cases closed by district offices, service centers, or the Office of International Operations. Certain types of cases are listed in which reconsideration is not considered a reopening. Rev. Proc. 74-5 superseded. §301.7605-1. (Sec. 601.105, S.P.R.; Sec. 7605, '54 Code.)

Rev. Proc. 81-35, 1981-2 C.B. 588.

2.6 Reorganization; Internal Revenue Service National Office; functions; Chief Counsel. The Secretary of the Treasury has reorganized the Internal Revenue Service National Office and transferred certain functions to Chief Counsel.

Treas. Dept. Order 150-95, 1982-8 I.R.B. 34.

Attorneys and agents

8.1 Unenrolled preparers of returns. Procedures are set forth to prescribe the standards of conduct, the scope of authority, and the circumstances and conditions under which an individual preparer of tax returns may exercise, without enrollment, the privilege of limited practice as a taxpayer's representative before the Service. Rev. Proc. 68-20 modified and superseded. (Sec. 601.502, S.P.R.)

Rev. Proc. 81-38, 1981-2 C.B. 592.

Bankruptcy and receiverships

10.1 Examination of returns. Procedures are provided for the trustee (or debtor in possession) to obtain a prompt determination by the Service of any unpaid tax liability of the bankruptcy estate incurred during the administration of the estate. (Sec. 601.105, S.P.R.)

Rev. Proc. 81-17, 1981-1 C.B. 688.

10.2 Refunds and credits. A procedure is provided for the trustee (or debtor in possession) representing the bankruptcy estate to file a claim for credit or refund for any overpayment of tax. §301.6402-2. (Sec. 601.105, S.P.R.; Sec. 6402, '54 Code.)

Rev. Proc. 81-18, 1981-1 C.B. 688

Books and records

14.1 Microfilm reproduction. Procedures are updated under which microfilm (including microfiche) reproduction of general books of account will be considered books and records. Rev. Proc. 64-12 amplified and Rev. Proc. 76-43 superseded. (Sec. 601.105, S.P.R.)

Rev. Proc. 81-46, 1981-2 C.B. 621.

14.2 Reopening closed cases. Rules are set forth governing the reopening of cases closed by district offices, service centers, or the Office of International Operations. Certain types of cases are listed in which reconsideration is not considered a reopening. Rev. Proc. 74-5 superseded. §301.7605-1 (Sec. 601-105, S.P.R.; Sec. 7605, '54 Code.)

Rev. Proc. 81-35, 1981-2 C.B. 588.

Closing agreements

16.1 Ruling procedure. Revised procedures are provided for issuing rulings, determination letters, and information letters, and for entering into closing agreements on specific issues. Rev. Proc. 80-20 superseded and Rev. Proc. 81-33 superseded in part. (Sec. 601.201, S.P.R.)

Rev. Proc. 82-37, 1982-26 I.R.B. 11.

16.2 Rulings procedure. Revised procedures are provided for furnishing technical advice to District Directors and Chiefs, Appeals Offices. Taxpayers' rights, when such advice has been requested, are also set forth. Rev. Procs. 80-21 and 81-33 superseded. (Sec. 601.105, S.P.R.)

Rev. Proc. 82-38, 1982-26 I.R.B. 23.

Deficiencies

24.1 Adjusted interest rate. The adjusted rate of interest on underpayments and overpayments of taxes will be 20 percent effective February 1, 1982. §301.6621-1. (Sec. 6621, '54 Code.)

Rev. Rul. 81-260, 1981-2 C.B. 244.

24.2 Interest; farm; special use value; premature disposal. When an election to specially value property has been made under section 2032A and the property is later disposed of prematurely, interest on the additional estate tax due will be assessed for the period commencing 6 months after the date of disposition. §§20.2032A-8, 20.6151-1, 301.6601-1. (Secs. 2032A, 6151, 6601; '54 Code.)

Rev. Rul. 81-308, 1981-2 C.B. 176.

Elections

26.1 Valuation; farms and closely held businesses; special use value; retroactive. Estates that were previously eligible for, but did not timely elect section 2032A valuation, cannot retroactively elect special use valuation under section 421(k)(5) of the Economic Recovery Tax Act of 1981. §20.2032A-1. (Sec. 202A, '54 Code.)

Rev. Rul. 82-62, 1982-15 I.R.C. 12.

26.2 Written agreement; valuation of property. Guidelines are provided for the filing of a written agreement executed by all parties who have any interest in property that is being valued at its value as a farm or closely held business rather than at its fair market value. §20.2032A-8. (Sec. 601.105, S.P.R.; Sec. 2032A, '54 Code.)

Rev. Proc. 81-14, 1981-1 C.B. 669.

Extension of time

28.1 Estate and gift taxes; overpayment with request; interest. The excess of the amount paid with a request for an extension of time to file over the final tax liability shown on an estate or gift tax return is an overpayment. Interest is due and payable from the last date prescribed for filing the return, determined without regard to any extension, to a date 30 days prior to the date of the refund check. §§20.6081-1, 20.6151-1, 25.6081-1, 25.6151-1, 301.6401-1, 301.6611-1. (Secs. 6081, 6151, 6401, 6611; '54 Code.)

Rev. Rul. 81-189, 1981-2 C.B. 240.

28.2 Estate tax; installment method; annual interest payments; closely held business. Failure to make annual interest payments required by section 6166(f)(1) will not trigger the accelerated payment of unpaid estate tax for the estates of decedents dying on or before December 31, 1981. However, any missed interest payments might be subject to normal collection proceedings including the levy and distraint provisions of section 6331. §20.6166-1. (Sec. 6166, '54 Code.)

Rev. Rul. 82-120, 1982-24 I.R.B. 7.

28.3 Estate tax; installment payments; deficiency or overpayment; closely held business. Examples illustrate the amount due when install-

ment payments are recomputed because of determinations of deficiencies, overpayments, and changes in the ratio of the value of an interest in a closely held business to the value of the estate. §§20.6166-1, 20.6166A-1, 301.6402-1, 301.6403-1. (Secs. 6166, 6166A, 6402, 6403; '54 Code.)

Rev. Rul. 81-294, 1981-2 C.B. 237.

28.4 Estate tax; payment; closely held business; residuary charitable bequest. When expenses are payable out of the residuary estate, the value of the residuary charitable bequest must be reduced by an estimate of the maximum amount of interest that will be payable on federal estate taxes deferred under section 6166A to determine the amount of the charitable deduction allowable under section 2055. The charitable deduction must be reduced by the interest whether the deduction for this administration expense will be taken on the estate's income tax return or the federal estate tax return. §§20.2055-1, 20.6166-1, 20.6166A-1. (Secs. 2055, 6166, 6166A; '54 Code.)

Rev. Rul. 82-6, 1982-1 I.R.B. 16.

28.5 Estate tax; payment; deduction of interest. When no waivers were filed under section 642(g), all interest expenses actually incurred on the deferred payment of the federal estate tax are deductible under section 2053(a)(2), even though the interest expenses were claimed on the estate's income tax returns and the period of limitations on assessment of income tax has expired for those years. Under the doctrine of equitable recoupment, the amount of the estate tax overpayment is offset by the deficiencies and the interest on them resulting from the deduction of interest on income tax returns for the years for which the period of limitations on assessment of income tax has expired. §20.2053-3. (Secs. 642, 2053, 6166, 6166A, 6501; '54 Code.)

Rev. Rul. 81-287, 1981-2 C.B. 183.

28.6 Estate tax; valuation; Treasury bonds; redeemed to pay tax. Under section 2031, the value of the decedent's Treasury bonds that could have been applied toward the portion of the federal estate tax that was deferred under section 6166 is their par value. §§20.2031-2, 20.6161-1, 20.6163-1, 20.6166-1, 20.6166A-1. (Secs. 2031, 6161, 6163, 6166, 6166A; '54 Code.)

Rev. Rul. 81-228, 1981-2 C.B. 171.

28.7 Failure to file; addition to tax. An estate or donor of a gift is subject to the addition to the tax for failure to file timely when the tax due on the return is paid with the filing for an extension of time but the return is not filed until after the period covered by the extension, and reasonable cause is not established. §§20.6075-1, 25.6075-1, 20.6081-1, 25.6081-1, 20.6151-1, 25.6151-1, 20.6161-1, 25.6161-1, 301.6651-1. (Secs. 6075, 6081, 6151, 6161, 6651; '54 Code.)

Rev. Rul. 81-237, 1981-2 C.B. 245.

Forms

30.1 Bulk quantities to preparers; shipping charge. The handling and shipping charge for furnishing bulk quantities of forms to paid preparers is adjusted. Rev. Proc. 80-43 superseded. (Sec. 601.602, S.P.R.)

Rev. Proc. 81-47, 1981-2 C.B. 622.

Liens

42.1 Estate tax; farms; special use value; state death tax credit. The section 2011 credit, used under section 2032A(c)(2)(C) in computing what would have been the estate tax liability but for the section 2032A election, is derived with respect to three different types of state death tax statutes. The computation is made for the purpose of determining the amount of the lien imposed by section 6324B. §20.2011-1. (Secs. 2011, 2032A, 624B; '54 Code.)

Rev. Rul. 82-35, 1982-10 I.R.B. 13.

Limitation period

44.1 Claims; state death tax credit. A claim for refund of federal estate tax based on an additional state death tax credit claimed under section 2011 may be made during the 2-year period for filing a claim for refund under section 6511(a) even though the 4-year period of limitation under section 2011(c) has expired. Rev. Rul. 56-568 superseded. §§20.2011-1, 301.6511(a)-1. (Secs. 2011, 6511; '54 Code.)

Rev. Rul. 81-263, 1981-2 C.B. 169.

44.2 Interest; installment payment of tax; equitable recoupment. When no waivers were filed under section 642(g), all interest expenses actually incurred on the deferred payment of the federal estate tax are deductible under section 2053(a)(2), even though the interest expenses were claimed on the estate's income tax returns and the period of limitations on assessment of income tax has expired for those years. Under the doctrine of equitable recoupment, the amount of the estate tax overpayment is offset by the deficiencies and the interest on them resulting from the deduction of interest on income tax returns for the years for which the period of limitations on assessment of income tax has expired. §20.2053-3. (Secs. 642, 2053, 6166, 6166A, 6501; '54 Code.)

Rev. Rul. 81-287, 1981-2 C.B. 183.

Overpayments

50.1 Adjusted interest rate. The adjusted rate of interest on underpayments and overpayments of taxes will be 20 percent effective February 1, 1982. §301.6621-1. (Sec. 6621, '54 Code.)

Rev. Rul. 81-260, 1981-2 C.B. 244.

50.2 Interest; excess payment with extension of time to file. The excess of the amount paid with a request for an extension of time to file over the final tax liability shown on an estate or gift tax return is an overpayment. Interest is due and payable from the last date prescribed for filing the return, determined without regard to any extension, to a date 30 days prior to the date of the refund check. §§20.6081-1, 20.6151-1, 25.6081-1, 25.6151-1, 301.6401-1, 301.6611-1. (Secs. 6081, 6151, 6401, 6611; '54 Code.)

Rev. Rul. 81-189, 1981-2 C.B. 240.

Payment of tax

52.1 Extension of time; failure to file timely; addition to tax. An estate or donor of a gift is subject to the addition to the tax for failure to file timely when the tax due on the return is paid with the filing for an extension of time but the return is not filed until after the period covered by the extension, and reasonable cause is not established. §§20.6075-1, 25.6075-1, 20.6081-1, 25.6081-1, 20.6151-1, 25.6151-1, 20.6161-1, 25.6161-1, 301.6651-1. (Secs. 6075, 6081, 6151, 6161, 6651; '54 Code.)

Rev. Rul. 81-237, 1981-2 C.B. 245.

52.2 Farm; special use value; premature disposal; interest. When an election to specially value property has been made under section 2032A and the property is later disposed of prematurely, interest on the additional estate tax due will be assessed for the period commencing 6 months after the date of disposition. §§20.2032A-8, 20.6151-1, 301.6601-1. (Secs. 2032A, 6151, 6601; '54 Code.)

Rev. Rul. 81-308, 1981-2 C.B. 176.

52.3 Installment method; annual interest payments; closely held business. Failure to make annual interest payments required by section 6166(f)(1) will not trigger the accelerated payment of unpaid estate tax for the estates of decedents dying on or before December 31, 1981. However, any missed interest payments might be subject to normal collection proceedings including the levy and distraint provisions of section 6331. §20.6166-1. (Sec. 6166, '54 Code.)

Rev. Rul. 82-120, 1982-24 I.R.B. 7.

52.4 Installment method; closely held business; residuary charitable bequest. When expenses are payable out of the residuary estate, the value of the residuary charitable bequest must be reduced by an estimate of the maximum amount of interest that will be payable on federal estate taxes deferred under section 6166A to determine the amount of the charitable deduction allowable under section 2055. The charitable deduction must be reduced by the interest whether the deduction for this administration expense will be taken on the estate's income tax return or the federal estate tax return. §§20.2055-1, 20.6166-1, 20.6166A-1. (Secs. 2055, 6166, 6166A; '54 Code.)

Rev. Rul. 82-6, 1982-1 I.R.B. 16.

52.5 Installment method; extension; deficiency or overpayment; closely held business. Examples illustrate the amount due when installment payments are recomputed because of determinations of deficiencies, overpayments, and changes in the ratio of the value of an interest in a closely held business to the value of the estate. §§20.6166-1, 20.6166A-1, 301.6402-1, 301.6403-1. (Secs. 6166, 6166A, 6402, 6403; '54 Code.)

Rev. Rul. 81-294, 1981-2 C.B. 237.

52.6 Installment method; procedures; amount recomputed; deduction for interest payment on tax due. The procedure is set forth for estates to follow when installment payments due under sections 6166 and 6166A are recomputed because of a reduction in the estate tax as a result of a deduction for the interest payment on the tax due. §§20.2053-3, 20.6166-1, 20.6166A-1. (Sec. 601.105, S.P.R.; Secs. 2053, 6166, 6166A, '54 Code.)

Rev. Proc. 81-27, 1981-2 C.B. 548.

Penalties

54.1 Extension of time; failure to file timely. An estate or donor of a gift is subject to the addition to the tax for failure to file timely when the tax due on the return is paid with the filing for an extension of time but the return is not filed until after the period covered by the extension, and reasonable cause is not established. §§20.6075-1, 25.6075-1, 20.6081-1, 25.6081-1, 20.6151-1, 25.6151-1, 20.6161-1, 25.6161-1, 301.6651-1. (Secs. 6075, 6081, 6151, 6161, 6651; '54 Code.)

Rev. Rul. 81-237, 1981-2 C.B. 245.

Refunds and credits

60.1 Bankruptcy estate. A procedure is provided for the trustee (or debtor in possession) representing the bankruptcy estate to file a claim for credit or refund for any overpayment of tax. §301.6402-2. (Sec. 601.105, S.P.R.; Sec. 6402, '54 Code.)

Rev. Proc. 81-18, 1981-1 C.B. 688.

60.2 Claims; limitation period. A claim for refund of federal estate tax based on an additional state death tax credit claimed under section 2011 may be made during the 2-year period for filing a claim for refund under section 6511(a) even though the 4-year period of limitation under section 2011(c) has expired. Rev. Rul. 56-568 superseded. §§20.2011-1, 301.6511(a)-1. (Secs. 2011, 6511; '54 Code.)

Rev. Rul. 81-263, 1981-2 C.B. 169.

60.3 Estate tax; installment payments; extension of time; deficiency or overpayment; closely held business. Examples illustrate the amount due when installment payments are recomputed because of determinations of deficiencies, overpayments, and changes in the ratio of the value of an interest in a closely held business to the value of the estate. §§20.6166–1, 20.6166A–1, 301.6402–1, 301.6403–1. (Secs. 6166, 6166A, 6402, 6403; '54 Code.)

Rev. Rul. 81–294, 1981–2 C.B. 237.

60.4 Overpayment exceeding $200,000 offset by merger partner's deficiency. A merged corporation's deficiency for a tax year before the merger may not offset an overpayment of its merger partner for a premerger tax year to determine whether a refund report must be made to the Joint Committee on Taxation. §301.6405–1. (Sec. 6405, '54 Code.)

Rev. Rul. 81–77, 1981–1 C.B. 582.

60.5 Overpayment with extension of time request; interest. The excess of the amount paid with a request for an extension of time to file over the final tax liability shown on an estate or gift tax return is an overpayment. Interest is due and payable from the last date prescribed for filing the return, determined without regard to any extension, to a date 30 days prior to the date of the refund check. §§20.6081–1, 20.6151–1, 25.6081–1, 25.6151–1, 301.6401–1, 301.6611–1. (Secs. 6081, 6151, 6401, 6611; '54 Code.)

Rev. Rul. 81–189, 1981–2 C.B. 240.

60.6 Split gift made within 3 years of spouses deaths. If a decedent's spouse dies after the decedent, and a gift that the decedent consented to split is includible in the spouse's estate, the decedent's estate is entitled to recompute its tax. §25.2513–1. (Secs. 2001, 2035, 2512; '54 Code.)

Rev. Rul. 81–85, 1981–1 C.B. 452.

60.7 Unified credit; tax conventions. The term "specific exemption" referred to in the estate tax conventions between the United States and Australia, Finland, Greece, Italy, Japan, Norway, and Switzerland may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Switzerland is entitled to only the $3,600 unified credit. (Sec. 2101, '54 Code.)

Rev. Rul. 81–303, 1981–2 C.B. 255.

Returns

64.1 Examination; bankruptcy estates. Procedures are provided for the trustee (or debtor in possession) to obtain a prompt determination by the Service of any unpaid tax liability of the bankruptcy estate incurred during the administration of the estate. (Sec. 601.105, S.P.R.)

Rev. Proc. 81–17, 1981–1 C.B. 688.

64.2 Failure to file; extension of time; addition to tax. An estate or donor of a gift is subject to the addition to the tax for failure to file timely when the tax due on the return is paid with the filing for an extension of time but the return is not filed until after the period covered by the extension, and reasonable cause is not established. §§20.6075–1, 25.6075–1, 20.6081–1, 25.6081–1, 20.6151–1, 25.6151–1, 20.6161–1, 25.6161–1, 301.6651–1. (Secs. 6075, 6081, 6151, 6161, 6651; '54 Code.)

Rev. Rul. 81–237, 1981–2 C.B. 245.

64.3 Reopening closed cases. Rules are set forth governing the reopening of cases closed by district offices, service centers, or the Office of International Operations. Certain types of cases are listed in which reconsideration is not considered a reopening. Rev. Proc. 74–5 superseded. §301.7605–1. (Sec. 601.105, S.P.R.; Sec. 7605, '54 Code.)

Rev. Proc. 81–35, 1981–2 C.B. 588.

Rulings

66.1 Areas in which advance rulings will not be issued. A revised list sets forth those areas of the Code under the jurisdiction of the Assistant Commissioner (Technical) in which the Service will not issue advance rulings or determination letters. Rev. Procs. 81–10, 81–32, 81–37, 81–50, 81–61, 81–64, 81–67, 81–72, 82–8, 82–11, 82–18, and 82–21 superseded. (Sec. 601.201, S.P.R.)

Rev. Proc. 82–22, 1982–13 I.R.B. 16.

66.2 Issuance procedures. Revised procedures are provided for issuing rulings, determination letters, and information letters, and for entering into closing agreements on specific issues. Rev. Proc. 80–20 superseded and Rev. Proc. 81–33 superseded in part. (Sec. 601.201, S.P.R.)

Rev. Proc. 82–37, 1982–26 I.R.B. 11.

66.3 Obsolete. The following Revenue Ruling contains a list of rulings that are declared obsolete. §301.7805–1. (Sec. 7805, '54 Code.)

Rev. Rul. 82–127, 1982–26 I.R.B. 9.

66.4 Technical advice to District Directors; issuance procedure. Revised procedures are provided for furnishing technical advice to District Directors and Chiefs, Appeals Offices. Taxpayers' rights, when such advice has been requested, are also set forth. Rev. Procs. 80–21 and 81–33 superseded. (Sec. 601.105, S.P.R.)

Rev. Proc. 82–38, 1982–26 I.R.B. 23.

ESTATE TAX

Administration expenses

102.1 Failure to file and pay penalties; interest. The failure to file and pay penalties are not deductible as administration expenses under section 2053 even if allowable under local law. The interest on a federal estate tax liability is a deductible administration expense to the extent allowable under local law regardless of the reason incurred. §§20.2053–3, 301.6601–1, 301.6651–1. (Secs. 2053, 6601, 6651; '54 Code.)

Rev. Rul. 81–154, 1981–1 C.B. 470.

102.2 Interest; installment payment of tax. When no waivers were filed under section 642(g), all interest expenses actually incurred on the deferred payment of the federal estate tax are deductible under section 2053(a)(2), even though the interest expenses were claimed on the estate's income tax returns and the period of limitations on assessment of income tax has expired for those years. Under the doctrine of equitable recoupment, the amount of the estate tax overpayment is offset by the deficiencies and the interest on them resulting from the deduction of interest on income tax returns for the years for which the period of limitations on assessment of income tax has expired. §20.2053–3. (Secs. 642, 2053, 6166, 6166A, 6501; '54 Code.)

Rev. Rul. 81–287, 1981–2 C.B. 183.

102.3 Interest; state death tax. Interest incurred on the deferral of state death taxes is deductible under section 2053 as an expense of administration. §20.2053–3. (Sec. 2053, '54 Code.)

Rev. Rul. 81–256, 1981–2 C.B. 183.

102.4 Widow's attorney's fees; determination by the state court. In litigation relating to the ownership of certain property transferred to the decedent's widow by the decedent prior to his death, the state court approved a compromise agreement which required that the estate pay the widow's attorney's fees. *Held,* the attorney's fees may be deducted as: (1) administration expenses under section 2053, as being essential to proper settlement of the estate under reg 20.2053–3(c)(3); (2) part of the cost of the executor's discharging his responsibility for collection of assets under reg. 20.2053–3 or; (3) as a settlement of a claim against the estate under section 2053. (Sec. 2053, '54 Code.)

Peter W. Reilly, 76 T.C. 369, Acq., 1981–2 C.B. 2.

Annuities

106.1 Survivorship; Social Security; monthly benefits. The value of monthly benefits payable to a decedent's spouse under section 402(e) of the Social Security Act is not includible in the decedent's gross estate under section 2033 or 2039. §§20.2033–1, 20.2039–1. (Sec. 2033, 2039; '54 Code.)

Rev. Rul. 81–182, 1981–2 C.B. 179.

Charitable, etc., transfers

112.1 Bequests; residue; value; closely held business. When expenses are payable out of the residuary estate, the value of the residuary charitable bequest must be reduced by an estimate of the maximum amount of interest that will be payable on federal estate taxes deferred under section 6166A to determine the amount of the charitable deduction allowable under section 2055. The charitable deduction must be reduced by the interest whether the deduction for this administration expense will be taken on the estate's income tax return or the federal estate tax return. §§20.2055–1, 20.6166–1, 20.6166A–1. (Secs. 2055, 6166, 6166A; '54 Code.)

Rev. Rul. 82–6, 1982–1 I.R.B. 16.

112.2 Farms; charitable remainder; special use value. A farm in which the decedent has transferred a life interest, in trust or otherwise, to a member of the decedent's family with the remainder interest in the property going to charity may not be valued under section 2032A. §§20.2032A–8, 20.2055–2. (Secs. 2032A, 2055; '54 Code.)

Rev. Rul. 81–220, 1981–2 C.B. 175.

112.3 Residuary interest; executor's discretion. A decedent's will provides for a legacy of specific dollar value to the decedent's adult child and for distribution of the estate's residue to a qualified charitable organization. The executor has absolute power to satisfy the legacy in cash, in property valued at fair market value on the date of distribution, or a combination of both, and to select the date for distribution of the estate's assets. Applicable state law requires the executor to act impartially with respect to the beneficiaries. A deduction is allowable under section 2055 for the bequest of the residue. §20.2055–2. (Sec. 2055, '54 Code.)

Rev. Rul. 81–20, 1981–1 C.B. 471.

112.4 Trust remainder; death of income beneficiary; judicial reformation. Where judicial reformation of a testamentary charitable remainder trust is initiated after the life beneficiary's death and before the due date of the testator's return, the amount of the charitable deduction allowable under section 2055(a) is determined as if the trust provided for a 6 percent annuity. Rev. Rul. 76–545 clarified. §20.2055–2. (Sec. 2055, '54 Code.)

Rev. Rul. 82–97, 1982–20 I.R.B. 9.

112.5 Trust remainder; power of appointment; division of assets. Decedent was the beneficiary of a testamentary trust established under the will of her predeceased husband. The trust gave the decedent a power of appointment over the corpus of the property and provided that upon the death of the decedent, noncharitable beneficiaries would receive life income interest equal to 60% of the trust income and a charitable organization would receive a income interest equal to 40% of the

trust income. After decedent's death, the trustee was informed that the estate would not be entitled to a charitable deduction under section 2055(a) of the Code because the trust did not comply with the restrictions contained in section 2055(e). The trustee, pursuant to specific authority in the trust instrument, segregated 40% of the trust assets and held this portion exclusively for the benefit of the charitable organization. *Held,* a wholly charitable trust was created for purposes of section 2055(e)(3) and the estate is entitled to a charitable deduction for the value of the 40% portion. (Sec. 2055, '54 Code.)

Nancy F. Crafts, 74 T.C. 1439, Acq. in result, 1981-2 C.B. 1.

Claims against estate

114.1 Deduction for claims against the estate; Canada. The Canadian tax on capital gains on the deemed disposition of real property at decedent's death is not an inheritance, legacy, or estate tax for purposes of section 2014, therefore, a foreign death tax credit is not allowed for payment of the tax. However, a deduction in the amount of the tax is allowable under section 2053(a)(3) as a claim against the decedent's estate. §§20.2014-1, 20.2053-6. (Secs. 2014, 2053; '54 Code.)

Rev. Rul. 82-82, 1982-18 I.R.B. 8.

114.2 Deduction for widow's attorney's fees; determination by state court. In litigation relating to the ownership of certain property transferred to the decedent's widow by the decedent prior to his death, the state court approved a compromise agreement which required that the estate pay the widow's attorney's fees. *Held,* the attorney's fees may be deducted as; (1) administration expenses under section 2053, as being essential to proper settlement of the estate under reg. 20.2053-3(c)(3); (2) part of the cost of the executor's discharging his responsibility for collection of assets under reg. 20.2053-3 or; (3) as a settlement of a claim against the estate under section 2053. (Sec. 2053, '54 Code.)

Peter W. Reilly, 76 T.C. 369, Acq., 1981-2 C.B. 2.

114.3 Refinanced mortgage balance outstanding; jointly held property. A decedent and the decedent's spouse each contributed cash toward the purchase of a residence as joint tenants with rights of survivorship and were jointly liable for a mortgage on the property, on which the decedent made all payments. The mortgage was refinanced and both the decedent and the decedent's spouse made payments. Upon the decedent's death, the estate and the spouse became jointly liable for the mortgage debt. Computations are shown for the amount includible in the decedent's gross estate under section 2040 and the amount deductible under section 2053 with respect to the refinanced mortgage indebtedness. §§20.2040-1, 20.2053-7. (Secs. 2040, 2053, '54 Code.)

Rev. Rul. 81-184, 1981-2 C.B. 181.

114.4 Second mortgage; jointly held residence. A decedent and the decedent's spouse each contributed cash toward the purchase of a residence as joint tenants with rights of survivorship and were jointly liable for a mortgage on the property on which the decedent made all payments. A second mortgage was obtained on which the spouse made all the payments. Upon the decedent's death, the estate and the spouse became jointly liable for the mortgage debt with rights of contribution. Computations are shown for the amount includible in the decedent's gross estate under section 2040 and the amount deductible under section 2053 with respect to the mortgage indebtedness when the proceeds of the second mortgage were used either to make improvements to the residence or for purposes not related to the real estate. §§20.2040-1, 20.2053-7. (Secs. 2040, 2053, '54 Code.)

Rev. Rul. 81-183, 1981-2 C.B. 180.

114.5 State gift tax paid. A state gift tax paid by a donor on a transfer later included in the donor's state inheritance tax base, and regarded as an advance payment of state inheritance tax, does not create an asset of the estate for purposes of section 2033 and is not includible in the decedent's gross estate at death. A credit under section 2011 is not allowable for any amount of inheritance tax considered paid by a credit of state gift tax paid before death. A state gift tax unpaid at death, which gives rise to a credit against the state inheritance tax when paid, is not allowable as a credit under section 2011, but is deductible as a claim against the estate under section 2053. Rev. Ruls. 71-355 and 75-63 revoked. §§20.2011-1, 20.2033-1, 20.2053-6. (Secs. 2011, 2033, 2053; '54 Code.)

Rev. Rul. 81-302, 1981-2 C.B. 170; Grace E. Lang, 64 T.C. 404, Acq., 1981-2 C.B. 2; George E. P. Gamble, 69 T.C. 942, Acq., 1981-2 C.B. 1.

Community property

116.1 Decedent's interest; separate property; Texas. Separate property under Texas community property law that a decedent transferred to the spouse prior to death and which was held by the spouse as separate property, is not includible in the decedent's gross estate. Rev. Rul. 75-504 revoked. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-221, 1981-2 C.B. 178.

Credits against tax

118.1 Foreign death taxes; Canada. The Canadian tax on capital gains on the deemed disposition of real property at decedent's death is not an inheritance, legacy, or estate tax for purposes of section 2014, therefore, a foreign death tax credit is not allowed for payment of the tax. However, a deduction in the amount of the tax is allowable under section 2053(a)(3) as a claim against the decedent's estate. §§20.2014-1, 20.2053-6. (Secs. 2014, 2053; '54 Code.)

Rev. Rul. 82-82, 1982-18 I.R.B. 8.

118.2 Limitation period; claims; state death tax credit. A claim for refund of federal estate tax based on an additional state death tax credit claimed under section 2011 may be made during the 2-year period for filing a claim for refund under section 6511(a) even though the 4-year period of limitation under section 2011(c) has expired. Rev. Rul. 56-568 superseded. §§20.2011-1, 301.6511(a)-1. (Secs. 2011, 6511; '54 Code.)

Rev. Rul. 81-263, 1981-1 C.B. 169.

118.3 Prior transfers; valuation; alternate. The executor of an estate elected alternate valuation. For purposes of calculating the credit for tax on prior transfers, the value of a life estate is based on the appropriate factor for the transferee's age on the date of the transferor's death, and the value of the trust's corpus is determined on the alternate valuation date. §§20.2013-4, 20.2031-10, 20.2032-1. (Secs. 2013, 2031, 2032; '54 Code.)

Rev. Rul. 81-118, 1981-1 C.B. 453.

118.4 State death tax credit; farms; special use value; liens. The section 2011 credit, used under section 2032A(c)(2)(C) in computing what would have been the estate tax liability but for the section 2032A election, is derived with respect to three different types of state death tax statutes. The computation is made for the purpose of determining the amount of the lien imposed by section 6324B. §20.2011-1. (Secs. 2011, 2032A, 6324B; '54 Code.)

Rev. Rul. 82-35, 1982-10 I.R.B. 13.

118.5 State gift tax paid. A state gift tax paid by a donor on a transfer later included in the donor's state inheritance tax base, and regarded as an advance payment of state inheritance tax, does not create an asset of the estate for purposes of section 2033 and is not includible in the decedent's gross estate at death. A credit under section 2011 is not allowable for any amount of inheritance tax considered paid by a credit of state gift tax paid before death. A state gift tax unpaid at death, which gives rise to a credit against the state inheritance tax when paid, is not allowable as a credit under section 2011, but is deductible as a claim against the estate under section 2053. Rev. Ruls. 71-355 and 75-63 revoked. §§20.2011-1, 20.2033-1, 20.2053-6. (Secs. 2011, 2033, 2053; '54 Code.)

Rev. Rul. 81-302, 1981-2 C.B. 170; Grace E. Lang, 64 T.C. 404, Acq., 1981-2 C.B. 2; George E. P. Gamble, 69 T.C. 942, Acq., 1981-2 C.B. 1.

118.6 Unified credit; tax conventions. The term "specific exemption" referred to in the estate tax conventions between the United States and Australia, Finland, Greece, Italy, Japan, Norway, and Switzerland may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Switzerland is entitled to only the $3,600 unified credit. (Sec. 2102, '54 Code.)

Rev. Rul. 81-303, 1981-2 C.B. 255.

Damages

120.1 Survivor's loss benefits; no-fault automobile insurance. Survivor's loss benefits payable under a no-fault automobile insurance policy are not property in which the decedent had an interest at death and are not includible in the gross estate. §§20.2033-1, 20.2042-1. (Secs. 203, 2042; '54 Code.)

Rev. Rul. 82-5, 1982-1 I.R.B. 15.

Gross estate

134.1 Insurance proceeds; corporation as beneficiary; stock redemption. Proceeds of a life insurance policy on a decedent's life, payable to a wholly owned corporation of the decedent and then to the decedent's estate pursuant to a stock redemption agreement, should be reflected in the valuation of the decedent's stock, which is included in the decedent's gross estate under section 2033. The insurance proceeds are not separately included in the decedent's gross estate under section 2042. §§20.2031-2, 20.2033-1, 20.2042-1. (Secs. 2031, 2033, 2042; '54 Code.)

Rev. Rul. 82-85, 1982-19 I.R.B. 5.

134.2 Life insurance proceeds; paid to trust; policy owner to receive trust income for life. An individual purchased and owned a life insurance policy on another's life and designated the trustee of a revocable trust created by the insured as beneficiary. When the insured dies and the policy proceeds become payable to the trustee, the individual, who will receive the income of the trust for life, will have made a completed gift. Further, if the individual does not relinquish the life interest in the trust, the portion of the trust corpus attributable to the individual's contribution of the policy proceeds will be includible in the individual's gross estate at death. §§20.2036-1, 25.2501-1, 25.2511-1, 25.2511-2, 25.2512-9. (Secs. 2036, 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-166, 1981-1 C.B. 477.

134.3 State gift tax paid. A state gift tax paid by a donor on a transfer later included in the donor's state inheritance tax base, and regarded as an advance payment of state inheritance tax, does not create an asset of the estate for purposes of section 2033 and is not includible in the decedent's gross estate at death. A credit under section 2011 is not allowable for any amount of inheritance tax considered paid by a credit of state gift tax paid before death. A state gift tax unpaid at death, which gives rise to a credit against the state inheritance tax

when paid, is not allowable as a credit under section 2011, but is deductible as a claim against the estate under section 2053. Rev. Ruls. 71-355 and 75-63 revoked. §§20.2011-1, 20.2033-1, 20.2053-6. (Secs. 2011, 2033, 2053; '54 Code.)

Rev. Rul. 81-302, 1981-2 C.B. 170; Grace E. Lang, 64 T.C. 404, Acq., 1981-2 C.B. 2; George E. P. Gamble, 69 T.C. 942 Acq., 1981-2 C.B. 1.

134.4 State public housing agency bonds. Bonds that are issued by a state public housing agency for a low-income housing project are included in the gross estate of the deceased owner of the bonds, even though the U.S. Housing Act of 1937 exempts them from all taxation. §20.2033-1. (Secs. 1001, 2033; '54 Code.)

Rev. Rul. 81-63, 1981-1 C.B. 455.

134.5 Transfers to irrevocable funded life insurance trust. The decedent obtained a life insurance policy, the proceeds of which were payable to the decedent's estate to the extent of the policy's cash surrender value, less any outstanding indebtedness. The balance of the proceeds was payable to the trustee of an irrevocable funded insurance trust that was created by the decedent and owned the policy and paid that portion of the annual premium that exceeded the annual increase in the cash surrender value. The decedent transferred funds to the trustee to enable the trustee to pay the trust portion of the premium. The balance the funds initially deposited that remained in the trust at the time of the decedent's death is not includible in the gross estate under section 2036. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-164, 1981-1 C.B. 458.

134.6 Transfers within 3 years of death; intrafamily loan. When an individual transfers cash to the individual's child within 3 years of death in exchange for a term promissory note having a fair market value less than the amount of the transferred cash, the amount includible is the difference between the amount of the loan and the fair market value of the note on the date of the gift. §§20.2033-1, 20.2043-1, 25.2512-8. (Secs. 2033, 2035, 2043, 2512; '54 Code.)

Rev. Rul. 81-286, 1981-2 C.B. 177.

134.7 Transfers within 3 years of death; gift tax. The gift tax paid by the decedent on a gift made within 3 years of death is includible in the gross estate under section 2035(c) even though the gift is also includible under another section. §20.2036-1. (Secs. 2035, 2036; '54 Code.)

Rev. Rul. 81-229, 1981-2 C.B. 176.

134.8 Transfers within 3 years of death; tenants by entirety. When the decedent and the decedent's spouse transfer joint tenancy property, as to which there was no election under section 2515(c), within 3 years of the decedent's death, one-half of the value of the property is includible in the decedent's gross estate under section 2035 and the other one-half of the value is reflected in the estate tax computation as an adjusted taxable gift under section 2001. Rev. Rul. 76-348 amplified. §25.2515-1. (Secs. 2001, 2035, 2515; '54 Code.)

Rev. Rul. 81-227, 1981-2 C.B. 168.

Husband and wife

136.1 Split gifts; deaths of spouses within three years of gift. If a decedent's spouse dies after the decedent, and a gift that the decedent consented to split is includible in the spouse's estate, the decedent's estate is entitled to recompute its tax. §25.2513-1. (Secs. 2001, 2035, 2512; '54 Code.)

Rev. Rul. 81-85, 1981-1 C.B. 452.

Interests in property

140.1 Community property; decedent's interest; separate property; Texas. Separate property under Texas community property law that a decedent transferred to the spouse prior to death and which was held by the spouse as separate property, is not includible in the decedent's gross estate. Rev. Rul. 75-504 revoked. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-221, 1981-2 C.B. 178.

140.2 Farm; special use value and eligible joint interest elections. The portion of an eligible joint interest includible in a decedent's gross estate under section 2040(c) is computed using the fair market value as the "value of such interest" under section 2040(c)(1)(A) even though the estate has elected the special use valuation for the interest under section 2032A. (Secs. 2040, 2032A; '54 Code.)

Rev. Rul. 81-146, 1981-1 C.B. 468.

140.3 Jointly held property; refinanced mortgage balance outstanding. A decedent and the decedent's spouse each contributed cash toward the purchase of a residence as joint tenants with rights of survivorship and were jointly liable for a mortgage on the property, on which the decedent's spouse made payments. The mortgage was refinanced and both the decedent and the decedent's spouse made payments. Upon the decedent's death, the estate and the spouse became jointly liable for the mortgage debt. Computations are shown for the amount includible in the decedent's gross estate under section 2040 and the amount deductible under section 2053 with respect to the refinanced mortgage indebtedness. §§20.2040-1, 20.2053-7. (Secs. 2040, 2053; '54 Code.)

Rev. Rul. 81-184, 1981-2 C.B. 181.

140.4 Jointly held property; residence; second mortgage. A decedent and the decedent's spouse each contributed cash toward the purchase of a residence as joint tenants with rights of survivorship and were jointly liable for a mortgage on the property on which the decedent made all payments. A second mortgage was obtained on which the spouse made all the payments. Upon the decedent's death, the estate and the spouse became jointly liable for the mortgage debt with rights of contribution. Computations are shown for the amount includible in the decedent's gross estate under section 2040 and the amount deductible under section 2053 with respect to the mortgage indebtedness when the proceeds of the second mortgage were used either to make improvements to the residence or for purposes not related to the real estate. §§20.2040-1, 20.2053-7. (Ses. 2040, 2053; '54 Code.)

Rev. Rul. 81-183, 1981-2 C.B. 180.

140.5 Prior transfers; trust; contingent remainder interest. A legally binding contract was entered into prior to the death of the life tenant between the two equal testamentary trust beneficiaries of contingent remainder interests providing that, if either predeceased the life tenant, then the survivor would transfer one-half of the trust corpus received to the heirs of the deceased. Upon the death of one of the beneficiaries prior to the death of the life tenant, the contract results in a transfer for purposes of section 2037. §§20.2033-1, 20.2037-1. (Secs. 2033, 207; '54 Code.)

Rev. Rul. 82-24, 1982-5 I.R.B. 13.

140.6 State gift tax paid for transfer included in donor's state inheritance tax base. A state gift tax paid by a donor on a transfer later included in the donor's state inheritance tax base, and regarded as an advance payment of state inheritance tax, does not create an asset of the estate for purposes of section 2033 and is not includible in the decedent's gross estate at death. A credit under section 2011 is not allowable for any amount of inheritance tax considered paid by a credit of state gift tax paid before death. A state gift tax unpaid at death, which gives rise to a credit against the state inheritance tax when paid, is not allowable as a credit under section 2011, but is deductible as a claim against the estate under section 2053. Rev. Ruls. 71-355 and 75-63 revoked. §§20.2011-1, 20.2033-1, 20.2053-6. (Secs. 2011, 2033, 2053; '54 Code.)

Rev. Rul. 81-302, 1981-2 C.B. 170; Grace E. Lang, 64 T.C. 404, Acq., 1981-2 C.B. 2; George E. P. Gamble, 69 T.C. 942, Acq., 1981-2 C.B. 1.

140.7 State public housing agency bonds. Bonds that are issued by a state public housing agency for a low-income housing project are included in the gross estate of the deceased owner of the bonds, even though the U.S. Housing Act of 1937 exempts them from all taxation. §20.2033-1. (Secs. 1001, 2033; '54 Code.)

Rev. Rul. 81-63, 1981-1 C.B. 455.

140.8 Survivor's loss benefits; no-fault automobile insurance. Survivor's loss benefits payable under a no-fault automobile insurance policy are not property in which the decedent had an interest at death and are not includible in the gross estate. §§20.2033-1, 20.2042-1. (Secs. 2033, 2042; '54 Code.)

Rev. Rul. 82-5, 1982-1 I.R.B. 15.

140.9 Survivorship annuity; Social Security; monthly benefits. The value of monthly benefits payable to a decedent's spouse under section 402(e) of the Social Security Act is not includible in the decedent's gross estate under section 2033 or 2039. §§20.2033-1, 20.2039-1. (Secs. 2033, 2039; '54 Code.)

Rev. Rul. 81-182, 1981-2 C.B. 179.

140.10 Transfers within 3 years of death; tenants by entirety. When the decedent and the decedent's spouse transfer joint tenancy property, as to which there was no election under section 2515(c), within 3 years of the decedent's death, one-half of the value of the property is includible in the decedent's gross estate under section 2035 and the other one-half of the value is reflected in the estate tax computation as an adjusted taxable gift under section 2001. Rev. Rul. 76-348 amplified. §25.2515-1. (Secs. 2001, 2035, 2515; '54 Code.)

Rev. Rul. 81-227, 1981-2 C.B. 168.

Life insurance

142.1 Corporation as beneficiary; stock redemption. Proceeds of a life insurance policy on a decedent's life, payable to a wholly owned corporation of the decedent and then to the decedent's estate pursuant to a stock redemption agreement, should be reflected in the valuation of the decedent's stock, which is included in the decedent's gross estate under section 2033. The insurance proceeds are not separately included in the decedent's gross estate under section 2042. §§20.2031-2, 20.2033-1, 20.2042-1. (Secs. 2031, 2033, 2042; '54 Code.)

Rev. Rul. 82-85, 1982-19 I.R.B. 5.

142.2 Proceeds; paid to trust; policy owner to receive trust income for life. An individual purchased and owned a life insurance policy on another's life and designated the trustee of a revocable trust created by the insured as beneficiary. When the insured dies and the policy proceeds become payable to the trustee, the individual, who will receive the income of the trust for life, will have made a completed gift. Further, if the individual does not relinquish the life interest in the trust, the portion of the trust corpus attributable to the individual's contribution of the policy proceeds will be includible in the individual's gross estate at death. §§20.2036-1, 25.2501-1, 25.2511-1, 25.2511-2, 25.2512-9. (Secs. 2036, 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-166, 1981-1 C.B. 477.

142.3 Proceeds; power of insured to exercise incidents of ownership. The Service will not follow the *Connelly* decision that held the decedent's right under an employer-funded noncontributory group life insurance policy to select optional settlement modes in conjunction with the employer and insurer was not an incident of ownership within the meaning of section 2042. §20.2042-1. (Sec. 2042, '54 Code.)

Rev. Rul. 81-128, 1981-1 C.B. 469.

142.4 Proceeds; rights under employment agreement. Under an employment agreement, if the employer, the owner and beneficiary of two life insurance policies on a decedent's life, elected not to pay the premiums or to surrender and terminate the policies the decedent had a right to take an assignment of the policies in exchange for their cash value. *Held,* decedent's rights at death are not incidents of ownership under section 2042 and the proceeds of the policies are not includable in the gross estate. (Sec. 2042, '54 Code.)

John Smith, 73 T.C. 307, Acq. in result, 1981-1 C.B. 2.

142.5 Survivor's loss benefits; no-fault automobile insurance. Survivor's loss benefits payable under a no-fault automobile insurance policy are not property in which the decedent had an interest at death and are not includible in the gross estate. §§20.2033-1, 20.2042-1. (Secs. 2033, 2042; '54 Code.)

Rev. Rul. 82-5, 1982-1 I.R.B. 15.

142.6 Transfer within 3 years of death. The value of a renewable group term life insurance policy is not includible in a decedent's gross estate under section 2035 when the decedent assigned the policy more than three years before death, but is considered to have made premium payments until death. (Sec. 2035, '54 Code.)

Rev. Rul. 82-13, 1982-2 I.R.B. 9.

142.7 Transfer within 3 years of death; insured predeceased decedent. The proceeds of an insurance policy on the life of another are includible in a decedent's gross estate if the decedent assigns that policy within three years of death and the insured predeceases the decedent. (Sec. 2035, '54 Code.)

Rev. Rul. 81-14, 1981-1 C.B. 456.

Marital deduction

146.1 "Estate equalization clause," alternate valuation date. Property passing to the decedent's spouse pursuant to an "estate equalization clause" qualifies for the marital deduction under section 2056 even though the clause allows for valuation of the spouse's estate on the alternate valuation date if elected for the estate of the decedent. §§20.2032-1, 20.2056(b)-1. (Secs. 2032, 2056; '54 Code.)

Rev. Rul. 82-23, 1982-4 I.R.B. 13; Charles W. Smith, 66 T.C. 415, Nonacq. withdrawn and Acq. substituted, 1928-4 I.R.B. 5; Fritz L. Meeske, 72 T.C. 73, Acq., 1982-4 I.R.B. 5.

146.2 Taxes; apportionate; Virginia; after 1979. For decedents dying after December 31, 1979, the marital deduction allowable under section 2056 with respect to property passing to the surviving spouse of a deceased resident of Virginia, whose will contained no provision directing the payment of federal estate tax or Virginia estate tax, is not reduced by the amount of Virginia estate tax due with respect to the estate. §20.2056(b)-4. (Sec. 2056, '54 Code.)

Rev. Rul. 81-165, 1981-1 C.B. 472.

Powers of appointment

154.1 General; not limited by ascertainable standard. For purposes of section 2041, the income beneficiary of a trust governed by Massachusetts law possesses a general power of appointment when the income beneficiary can invade the trust corpus for the beneficiary's "maintenance, comfort, and happiness." The Service will not follow the *Brantingham* decision. §20.2041-1. (Sec. 2041, '54 Code.)

Rev. Rul. 82-63, 1982-16 I.R.B. 13.

Securities

160.1 State public housing agency bonds. Bonds that are issued by a state public housing agency for a low-income housing project are included in the gross estate of the deceased owner of the bonds, even though the U.S. Housing Act of 1937 exempts them from all taxation. §20.2033-1. (Secs. 1001, 2033; '54 Code.)

Rev. Rul. 81-63, 1981-1 C.B. 455.

160.2 Stock transferred in trust; retained power. Prior to death, a taxpayer transferred nonvoting closely held corporate stock to a trust, retained the voting stock of the corporation, and retained control over the disposition of the nonvoting stock. The taxpayer did not retain the right to determine the income from the nonvoting stock or the persons who would enjoy the income therefrom, and the value of the nonvoting stock is not includible in the gross estate of the decedent. Rev. Rul. 67-54 revoked. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-15, 1981-1 C.B. 457.

160.3 Treasury bonds; redeemed to pay tax. Under section 2031, the value of the decedent's Treasury bonds that could have been applied toward the portion of the federal estate tax that was deferred under section 6166 is their par value. §§20.2031-2, 20.6161-1, 20.6163-1, 20.6166-1, 20.6166A-1. (Secs. 2031, 6161, 6163, 6166, 6166A; '54 Code.)

Rev. Rul. 81-228, 1981-2 C.B. 171.

Tax

Deduction

164.1 Foreign death taxes; Canada. The Canadian tax on capital gains on the deemed disposition of real property at decedent's death is not an inheritance, legacy, or estate tax for purposes of section 2014, therefore, a foreign death tax credit is not allowed for payment of the tax. However, a deduction in the amount of the tax is allowable under section 2053(a)(3) as a claim against the decedent's estate. §§20.2014-1, 20.2053-6. (Secs. 2014, 2053; '54 Code.)

Rev. Rul. 82-82, 1982-18 I.R.B. 8.

164.2 State gift tax paid for transfer included in donor's state inheritance tax base. A state gift tax paid by a donor on a transfer later included in the donor's state inheritance tax base, and regarded as an advance payment of state inheritance tax, does not create an asset of the estate for purposes of section 2033 and is not includible in the decedent's gross estate at death. A credit under section 2011 is not allowable for any amount of inheritance tax considered paid by a credit of state gift tax paid before death. A state gift tax unpaid at death, which gives rise to a credit against the state inheritance tax when paid, is not allowable as a credit under section 2011, but is deductible as a claim against the estate under section 2053. Rev. Ruls. 71-355 and 75-63 revoked. §§20.2011-1, 20.2033-1, 20.2053-6. (Secs. 2011, 2033, 2053; '54 Code.)

Rev. Rul. 81-302, 1981-2 C.B. 170; Grace E. Lang, 64 T.C. 404 Acq., 1981-2 C.B. 2; George E. P. Gamble, 69 T.C. 942, Acq., 1981-2 C.B. 1.

Tax conventions

Australia

166.1 Unified credit. The term "specific exemption" referred to in the estate tax convention between the United States and Australia may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Australia is entitled to only the $3,600 unified credit allowed under section 2120(c)(2) of the Code.

Rev. Rul. 81-303, 1981-2 C.B. 255.

Finland

166.2 Unified credit. The term "specific exemption" referred to in the estate tax convention between the United States and Finland may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Finland is entitled to only the $3,600 unified credit allowed under section 2102(c)(2) of the Code.

Rev. Rul. 81-303, 1981-2 C.B. 255.

Greece

166.3 Unified credit The term "specific exemption" referred to in the estate tax convention between the United States and Greece may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Greece is entitled to only the $3,600 unified credit allowed under section 2102(c)(2) of the Code.

Rev. Rul. 81-303, 1981-2 C.B. 255.

Italy

166.4 Unified credit. The term "specific exemption" referred to in the estate tax convention between the United States and Italy may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Italy is entitled to only the $3,600 unified credit allowed under section 2102(c)(2) of the Code.

Rev. Rul. 81-303, 1981-2 C.B. 255.

Japan

166.5 Unified credit. The term "specific exemption" referred to in the estate tax convention between the United States and Japan may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Japan is entitled to only the $3,600 unified credit allowed under section 2102(c)(2) of the Code.

Rev. Rul. 81-303, 1981-2 C.B. 255.

Norway

166.6 Unified credit. The term "specific exemption" referred to in the estate tax convention between the United States and Norway may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Norway is entitled to only the $3,600 unified credit allowed under section 2102(c)(2) of the Code.

Rev. Rul 81-303, 1981-2 C.B. 255.

Switzerland

166.7 Unified credit. The term "specific exemption" referred to in the estate tax convention between the United States and Switzerland may not be construed to include the section 2010 unified credit added to the Code by the Tax Reform Act of 1976. Accordingly, the estate of a citizen and resident of Switzerland is entitled to only the $3,600 unified credit allowed under section 2102(c)(2) of the Code.

Rev. Rul. 81-303, 1981-2 C.B. 255.

Transfers

168.1 Charitable remainder annuity trust; private annuitant; valuation. The portion of a charitable remainder trust includible in the decedent-grantor's gross estate, where the decedent is the private annuitant, is that portion of trust corpus necessary to yield the private annuity payment, assuming a 6 percent return. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 82-105, 1982-21 I.R.B. 9.

168.2 Generation-skipping, addition to trust; valuation date. The date for valuing an addition to a trust, for purposes of the Generation-Skipping Transfer Tax, is the date the will or trust provision requiring the addition becomes effective. §26.2601. (Sec. 2601, '54 Code.)

Rev. Rul. 82-36, 1982-10 I.R.B. 15.

168.3 Life insurance; within 3 years of death. The value of a renewable group term life insurance policy is not includible in a decedent's gross estate under section 2035 when the decedent assigned the policy more than three years before death, but is considered to have made premium payments until death. (Sec. 2035, '54 Code.)

Rev. Rul. 82-13, 1982-2 I.R.B. 9.

168.4 Life insurance; within 3 years of death; insured predeceased. The proceeds of an insurance policy on the life of another are includible in a decedent's gross estate if the decedent assigns that policy within three years of death and the insured predeceases the decedent. (Sec. 2035, '54 Code.)

Rev. Rul. 81-14, 1981-1 C.B. 456.

168.5 Stock transferred in trust; retained power. Prior to death, a taxpayer transferred nonvoting closely held corporate stock to a trust, retained the voting stock of the corporation, and retained control over the disposition of the nonvoting stock. The taxpayer did not retain the right to determine the income from the nonvoting stock or the persons who would enjoy the income therefrom, and the value of the nonvoting stock is not includible in the gross estate of the decedent. Rev. Rul. 67-54 revoked. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-15, 1981-1 C.B. 457.

168.6 Trust; contingent power to appoint successor trustee. Rev. Rul. 79-353, which holds that the value of property transferred to a trust is includible in the decedent-grantor's gross estate under sections 2036(a)(2) and 2038(a)(1) if the grantor retains the power to replace the trustee, will not be applied to a transfer or to an addition to a trust made before October 29, 1979, if the trust was irrevocable on October 28, 1979. Rev. Rul. 79-353 modified. §§20.2036-1, 20.2038-1, 301.7805-1. (Secs. 2036, 2038, 7805; '54 Code.)

Rev. Rul. 81-51, 1981-1 C.B. 458.

168.7 Trust; funded life insurance; balance at death. The decedent obtained a life insurance policy, the proceeds of which were payable to the decedent's estate to the extent of the policy's cash surrender value, less any outstanding indebtedness. The balance of the proceeds was payable to the trustee of an irrevocable funded insurance trust that was created by the decedent and owned the policy and paid that portion of the annual premium that exceeded the annual increase in the cash surrender value. The decedent transferred funds to the trust to enable the trustee to pay the trust portion of the premium. The balance of the funds initially deposited that remained in the trust at the time of the decedent's death is not includible in the gross estate under section 2036. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 81-164, 1981-1 C.B. 458.

168.8 Trust; prior transfer of contingent remainder interest. A legally binding contract was entered into prior to the death of the life tenant between the two equal testamentary trust beneficiaries of contingent remainder interests providing that, if either predeceased the life tenant, then the survivor would transfer one-half of the trust corpus received to the heirs of the deceased. Upon the death of one of the beneficiaries prior to the death of the life tenant, the contract results in a transfer for purposes of section 2037. §§20.2033-1, 20.2037-1. (Secs. 2033, 2037; '54 Code.)

Rev. Rul. 82-24, 1982-5 I.R.B. 13.

168.9 Within 3 years of death; gift tax. The gift tax paid by the decedent on a gift made within 3 years of death is includible in the gross estate under section 2035(c) even though the gift is also includible under another section. §20.2036-1. (Secs. 2035, 2036; '54 Code.)

Rev. Rul. 81-229, 1981-2 C.B. 176.

168.10 Within 3 years of death; intrafamily loan. When an individual transfers cash to the individual's child within 3 years of death in exchange for a term promissory note having a fair market value less than the amount of the transferred cash, the amount includible is the difference between the amount of the loan and the fair market value of the note on the date of the gift. §§20.2033-1, 20.2043-1, 25.2512-8. (Secs. 2033, 2035, 2043, 2512; '54 Code.)

Rev. Rul. 81-286, 1981-2 C.B. 177.

168.11 Within 3 years of death; split gift. If a decedent's spouse dies after the decedent, and a gift that the decedent consented to split is includible in the spouse's estate, the decedent's estate is entitled to recompute its tax. §25.2513-1. (Secs. 2001, 2035, 2512; '54 Code.)

Rev. Rul. 81-85, 1981-1 C.B. 452.

168.12 Within 3 years of death; tenants by entirety. When the decedent and the decedent's spouse transfer joint tenancy property, as to which there was no election under section 2515(c), within 3 years of the decedent's death, one-half of the value of the property is includible in the decedent's gross estate under section 2035 and the other one-half of the value is reflected in the estate tax computation as an adjusted taxable gift under section 2001. Rev. Rul. 76-348 amplified. §25.2515-1. (Secs. 2001, 2035, 2515; '54 Code.)

Rev. Rul. 81-227, 1981-2 C.B. 168.

Trusts

170.1 Charitable remainder; death of income beneficiary; judicial reformation. Where judicial reformation of a testamentary charitable remainder trust is initiated after the life beneficiary's death and before the due date of the testator's return, the amount of the charitable deduction allowable under section 2055(a) is determined as if the trust provided for a 6 percent annuity. Rev. Rul. 76-545 clarified. §20.2055-2. (Sec. 2055, '54 Code.)

Rev. Rul. 82-97, 192-20 I.R.B. 9.

170.2 Chartiable remainder; power of appointment; division of assets. Decedent was the beneficiary of a testamentary trust established under the will of her predeceased husband. The trust gave the decedent a power of appointment over the corpus of the property and provided that upon the death of the decedent, noncharitable beneficiaries would receive life income interest equal to 60% of the trust income and a charitable organization would receive an income interest equal to 40% of the trust income. After decedent's death, the trustee was informed that the estate would not be entitled to a charitable deduction under section 2055(a) of the Code because the trust did not comply with the restrictions contained in section 2055(e). The trustee, pursuant to specific authority in the trust instrument, segregated 40% of the trust assets and held this portion exclusively for the benefit of the charitable organization. *Held*, a wholly charitable trust was created for the purposes of section 2055(e)(3) and the estate is entitled to a charitable deduction for the value of the 40% portion. (Sec. 2055, '54 Code.)

Nancy F. Crafts, 74 T.C. 1439, Acq. in result, 1981-2 C.B. 1.

170.3 Charitable remainder; private annuitant; valuation. The portion of a charitable remainder trust includible in the decedent-grantor's gross estate, where the decedent is the private annuitant, is that portion of trust corpus necessary to yield the private annuity payment, assuming a 6 percent return. §20.2036-1. (Sec. 2036, '54 Code.)

Rev. Rul. 82-105, 1982-21 I.R.B. 9.

170.4 Generation-skipping; addition to trust; valuation date. The date for valuing an addition to a trust, for purposes of the Generation-Skipping Transfer Tax, is the date the will or trust provision requiring the addition becomes effective. §26.2601. (Sec. 2601, '54 Code.)

Rev. Rul. 82-36, 1982-10 I.R.B. 15.

170.5 Powers of appointment; general; ascertainable standard. For purposes of section 2041, the income beneficiary of a trust governed by Massachusetts law possesses a general power of appointment when the income beneficiary can invade the trust corpus for the beneficiary's "maintenance, comfort, and happiness." The Service will not follow the *Brantingham* decision. §20.2041-1. (Sec. 2041, '54 Code.)

Rev. Rul. 82-63, 1982-16 I.R.B. 13.

170.6 Transfers; contingent power to appoint successor trustee. Rev. Rul. 79-353, which holds that the value of property transferred to a trust is includible in the decedent-grantor's gross estate under sections 2036(a)(2) and 2038(a)(1) if the grantor retains the power to replace the trustee, will not be applied to a transfer or to an addition to a trust made before October 29, 1979, if the trust was irrevocable on October 28, 1979. Rev. Rul. 79-353 modified. §§20.2036-1, 20.2038-1, 301.7805-1. (Secs. 2036, 2038, 7805; '54 Code.)

Rev. Rul. 81-51, 1981-1 C.B. 458.

170.7 Transfers within 3 years of death; gift tax. The gift tax paid by the decedent on a gift made within 3 years of death is includible in the gross estate under section 2035(c) even though the gift is also includible under another section. §20.2036-1 (Secs. 2035, 2036; '54 Code.)

Rev. Rul. 81-229, 1981-2 C.B. 176.

Valuation

Alternate

172.1 Life estate; credit for tax on prior transfers. The executor of an estate elected alternate valuation. For purposes of calculating the credit for tax on prior transfers, the value of a life estate is based on the appropriate factor for the transferee's age on the date of the transferor's death, and the value of the trust's corpus is determined on the alternate valuation date. §§20.2013-4, 20.2031-10, 20.2032-1. (Secs. 2013, 2031, 2032; '54 Code.)

Rev. Rul. 81-118, 1981-1 C.B. 453.

172.2 Marital deduction; "estate equalization clause". Property passing to the decedent's spouse pursuant to an "estate equalization clause" qualifies for the marital deduction under section 2056 even though the clause allows for valuation of the spouse's estate on the alternate valuation date if elected for the estate of the decedent. §§20.2032-1, 20.2056(b)-1. (Secs. 2032, 2056; '54 Code.)

Rev. Rul. 82-23, 1982-4 I.R.B. 13; Charles W. Smith, 66 T.C. 415, Nonacq. withdrawn and Acq. substituted, 1982-4 I.R.B. 5; Fritz L. Meeske, 72 T.C. 73, Acq., 1982-4 I.R.B. 5.

Valuation

Farms and closely-held businesses

174.1 Election; written agreement. Guidelines are provided for the filing of a written agreement executed by all parties who have any interest in property that is being valued at its value as a farm or closely-held business rather than at its fair market value. §20.2032A-8. (Sec. 601.105, S.P.R.; Sec. 2032A, '54 Code.)
Rev. Proc. 81-14, 1981-1 C.B. 669.

174.2 Farms; gift made by qualified heir to family member. When a qualified heir, described in section 2032A(e), makes a gift of qualified real property to a family member who signs the agreement under section 2032A(d), the value of the gift is not reduced by the additional tax that could be subsequently imposed on the family member under section 2032A(c). §25.2512-1. (Secs. 2032A, 2512; '54 Code.)
Rev. Rul. 81-230, 1981-2 C.B. 186.

174.3 Farms; special use value; charitable remainder. A farm in which the decedent has transferred a life interest, in trust or otherwise, to a member of the decedent's family with the remainder interest in the property going to charity may not be valued under section 2032A. §§20.2032A-8, 20.2055-2. (Secs. 2032A, 2055; '54 Code.)
Rev. Rul. 81-220, 1981-2 C.B. 175.

174.4 Farms; special use value; interest rates. The interest rates to be used in commputing the special use value of farm real property for which an election is made under section 2032A are listed for estates of decedents dying in 1982. §20.2032A-4. (Sec. 2032, '54 Code.)
Rev. Rul. 82-104, 1982-21 I.R.B. 8.

174.5 Farms; special use value; interest rates. The interest rates to be used in computing the special use value of farm real property for which an election is made under section 2032A are listed for estates of decedents dying in the period 1977-1981. An example illustrates how the annual interest rates are calculated. Rev. Rul. 80-179 superseded. §20.2032A-4. (Sec. 2032A, '54 Code.)
Rev. Rul. 81-170, 1981-1 C.B. 454.

174.6 Farms; special use value; involuntarily convert property. In computing the duration of a decedent's ownership of farm property acquired after an involuntary conversion of other farm property, the duration of ownership of the original tracts is attributed to the replacement property on a proportionate basis. The property owned at death is replacement property to the extent attributable to reinvested condemnation proceeds. §20.2032A-3. (Sec. 2032A, '54 Code.)
Rev. Rul. 81-285, 1981-2 C.B. 173.

174.7 Farms; special use value; premature disposal; interest. When an election to specially value property has been made under section 2032A and the property is later disposed of prematurely, interest on the additional estate tax due will be assessed for the period commencing 6 months after the date of disposition. §§20.2032A-8, 20.6151-1, 301.6601-1. (Secs. 2032A, 6151, 6601; '54 Code.)
Rev. Rul. 81-308, 1981-2 C.B. 176.

174.8 Farms, special use value; state death tax credit; liens. The section 2011 credit, used under section 2032A(c)(2)(C) in computing what would have been the estate tax liability but for the section 2032A election, is derived with respect to three different types of state death tax statutes. The computation is made for the purpose of determining the amount of the lien imposed by section 6324B. §20.2011-1. (Secs. 2011, 2032A, 6324B; '54 Code.)
Rev. Rul. 82-35, 1982-10 I.R.B. 13.

174.9 Farms; special use value and eligible joint interest elections. The portion of an eligible joint interest includible in a decedent's gross estate under section 2040(c) is computed using the fair market value as the "value of such interest" under section 2040(c)(1)(A) even though the estate has elected the special use valuation for the interest under section 2032A. (Secs. 2040, 2032A, '54 Code.)
Rev. Rul. 81-146, 1981-1 C.B. 468.

174.10 Special use; elections; claims for credit or refund. Guidelines are set forth for filing and reinstating elections and for filing claims for credit or refund for estates qualifying for special use valuation under the retroactive provisions of the Economic Recovery Tax Act of 1981. §20.2032A-8. (Sec. 601.105, S.P.R.; Sec. 2032A, '54 Code.)
Rev. Proc. 82-9, 1982-7 I.R.B. 22.

174.11 Special use; retroactive election. Estates that were previously eligible for, but did not timely elect section 2032A valuation, cannot retroactively elect special use valuation under section 421(k)(5) of the Economic Recovery Tax Act of 1981. §20.2032A-1. (Sec. 2032A, '54 Code.)
Rev. Rul. 82-62, 1982-15 I.R.B. 12.

174.12 Special use valuation; acknowledged child; Illinois. For purposes of electing special use valuation, an acknowledged child under Illinois law does not qualify as a legally adopted child within the meaning of section 2032A(e)(2). (Sec. 2032A, '54 Code.)
Rev. Rul. 81-179, 1981-2 C.B. 172.

174.13 Special use valuation; qualified heir; widow or widower of lineal descendant. For purposes of electing special use valuation, the widow or widower of the decedent's lineal descendant is a qualified heir. (Sec. 2032A, '54 Code.)
Rev. Rul. 81-236, 1981-2 C.B. 172.

General

176.1 Stock redemption; wholly owned corporation; insurance proceeds. Proceeds of a life insurance policy on a decedent's life, payable to a wholly owned corporation of the decedent and then to the decedent's estate pursuant to a stock redemption agreement, should be reflected in the valuation of the decedent's stock, which is included in the decedent's gross estate under section 2033. The insurance proceeds are not separately included in the decedent's gross estate under section 2042. §§20.2031-2, 20.2033-1, 20.2042-1. (Secs. 2031, 2033, 2042; '54 Code.)
Rev. Rul. 82-85, 1982-19 I.R.B. 5.

176.2 Trust; prior transfer of contingent remainder interest. A legally binding contract was entered into prior to the death of the life tenant between the two equal testamentary trust beneficiaries of contingent remainder interests providing that, if either predeceased the life tenant, then the survivor would transfer one-half of the trust corpus received to the heirs of the deceased. Upon the death of one of the beneficiaries prior to the death of the life tenant, the contract results in a transfer for purposes of section 2037. §§20.2033-1, 20.2037-1. (Secs. 2033, 2037; '54 Code.)
Rev. Rul. 82-24, 1982-5 I.R.B. 13.

176.3 Treasury bonds; redeemed to pay tax. Under section 2031, the value of the decedent's Treasury bonds that could have been applied toward the portion of the federal estate tax that was deferred under section 6166 is their par value. §§20.2031-2, 20.6161-1, 20.6163-1, 20.6166-1, 20.6166A-1. (Secs. 2031, 6161, 6163, 6166, 6166A; '54 Code.)
Rev. Rul. 81-228, 1981-2 C.B. 171.

GIFT TAX

Charitable, etc., transfers

204.1 Pledge of donor honored by third party. An individual made a binding pledge to a charitable organization that was honored by a third party. The individual is considered to have made a gift to the charity at the time the pledge became enforceable, and the third party made a gift to the individual at the time the pledge was honored. The individual is entitled to a charitable gift deduction, but the third party is not. §§25.2511-2, 25.2522(a)-1 (Secs. 2511, 2522; '54 Code.)
Rev. Rul. 81-110, 1981-1 C.B. 479.

Credits against tax

208.1 Unified credit; tax paid by donee. The gift tax liability assumed by the donee may be deducted from the value of transferred property if payment of tax by donee is a condition of the transfer. The donor's available unified credit is used to reduce the tax in determining the liability. §§25.2511-2, 25.2512-8. (Secs. 2505, 2511, 2512; '54 Code.)
Rev. Rul. 81-223, 1981-2 C.B. 189.

Exclusions

218.1 Death benefit. An employee entered into an employment contract in which the employer agreed to pay a death benefit of twice the annual salary at the time of death to the employee's surviving spouse, but only if the employee was still employed at the time of death. The death benefit was not funded. The employee made a gift of a present interest in the quarter in which death occurred—the time when the value of the death benefit became ascertainable—and the gift qualifies for the annual exclusion allowable under section 2503(b). §§25.2503-2, 25.2511-1, 25.2512-1. (Secs. 2503, 2511, 2512; '54 Code.)
Rev. Rul. 81-31, 1981-1 C.B. 475.

218.2 Medical expenses paid on behalf of another. The direct payment of unreimbursable medical expenses to the service provider by a donor on behalf of another is not subject to gift tax under section 2503(e), effective for gifts made after December 31, 1981. Rev. Ruls. 54-343 and 73-612 amplified. §§25.2503-1, 25.2512-8. (Secs. 2503, 2512; '54 Code.)
Rev. Rul. 82-98, 1982-20 I.R.B. 10.

218.3 Trust; power to demand corpus; present v. future interest. A trust provision that gives a legally competent adult beneficiary the power to demand corpus does not qualify a transfer to the trust as a present interest eligible for the gift tax annual exclusion, if due to the donor's conduct, the beneficiary lacks knowledge of the power and does not have a reasonable opportunity to exercise it before it lapses. §25.2503-3. (Sec. 2503, '54 Code.)
Rev. Rul. 81-7, 1981-1 C.B. 474.

Gifts

222.1 Death benefit. An employee entered into an employment contract in which the employer agreed to pay a death benefit of twice the annual salary at the time of death to the employee's surviving spouse, but only if the employee was still employed at the time of death. The death benefit was not funded. The employee made a gift of a present interest in the quarter in which death occurred—the time when the value of the death benefit became ascertainable—and the gift qualifies for the annual exclusion allowable under section 2503(b). §§25.2503-2, 25.2511-1, 25.2512-1. (Secs. 2503, 2511, 2512; '54 Code.)
Rev. Rul. 81-31, 1981-1 C.B. 475.

222.2 Life insurance proceeds; transferred to trust created by insured; policy owned by trust beneficiary. An individual purchased and owned a life insurance policy on another's life and designated the trustee of a revocable trust created by the insured as beneficiary. When the insured dies and the policy proceeds become payable to the trustee, the individual, who will receive the income of the trust for life, will have made a completed gift. Further, if the individual does not relinquish the life interest in the trust, the portion of the trust corpus attributable to the individual's contribution of the policy proceeds will be includible in the individual's gross estate at death. §§20.2036-1, 25.2501-1, 25.2511-1, 25.2511-2, 25.2512-9. (Secs. 2036, 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-166, 1981-1 C.B. 477.

222.3 Medical expenses paid on behalf of another. The direct payment of unreimbursable medical expenses to the service provider by a donor on behalf of another is not subject to gift tax under section 2503(e), effective for gifts made after December 31, 1981. Rev. Ruls. 54-343 and 73-612 amplified. §§25.2503-1, 25.2512-8. (Secs. 2503, 2512; '54 Code.)

Rev. Rul. 82-98, 1982-20 I.R.B. 10.

222.4 Pledge of donor honored by third party. An individual made a binding pledge to a charitable organization that was honored by a third party. The individual is considered to have made a gift to the charity at the time the pledge became enforceable, and the third party made a gift to the individual at the time the pledge was honored. The individual is entitled to a charitable gift deduction, but the third party is not. §§25.2511-2, 25.2522(a)-1. (Secs. 2511, 2522; '54 Code.)

Rev. Rul. 81-110, 1981-1 C.B. 479.

222.5 Property transferred; additional estate tax. When a qualified heir, described in section 2032A(e), makes a gift of qualified real property to a family member who signs the agreement under section 2032A(d), the value of the gift is not reduced by the additional tax that could be subsequently imposed on the family member under section 2032A(c). §25.2512-1. (Secs. 2032A, 2512; '54 Code.)

Rev. Rul. 81-230, 1981-2. C.B. 186.

222.6 Running of statute of limitations on recovery of loan. An individual who permits the statute of limitatiions to run on recovery of a loan to a family member made a gift, where the debtor had some financial resources available to repay the loan. §25.2511-2. (Sec. 2511, '54 Code.)

Rev. Rul. 81-264, 1981-2 C.B. 185.

222.7 Split-dollar life insurance arrangement; transfer to trust; annual premiums. An employee, as the owner of an insurance policy held under a "split-dollar" arrangement, transferred the rights in the policy to a trust for the benefit of the employee's child. The value of the gift of the policy is the interpolated terminal reserve of the policy plus the proportionate part of the premiums paid before the date of the gift reduced by the value of the employer's interest in the policy. The employee's payment of the annual premiums after the transfer is also a gift. Further, the value of the life insurance provided by the employer, which is included in the employee's income, is deemed transferred to the trust. §§25.2511-1, 25.2512-6. (Secs. 2511, 2512; '54 Code.)

Rev. Rul. 81-198, 1981-2 C.B. 188.

222.8 Tax paid by donee; valuation. The gift tax liability assumed by the donee may be deducted from the value of transferred property if payment of tax by donee is a condition of the transfer. The donor's available unified credit is used to reduce the tax in determining the liability. §§25.2511-2, 25.2512-8. (Secs. 2505, 2511, 2512; '54 Code.)

Rev. Rul. 81-223, 1981-2 C.B. 189.

222.9 Transfer in trust; stock of DISC and continued contractural relationship. The tax consequences are discussed of (1) a gift by the shareholders of a manufacturing corporation of stock in a newly formed DISC to trusts for the benefit of their children and (2) a continued contractural relationship between their corporations, pursuant to which sales commissions are paid to the DISC in exchange for no significant services. §§25.2501-1, 25.2511-1, 25.2512-8. (Secs. 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-54, 1981-1 C.B. 476.

222.10 Transfer of contingent remainder interest. A trust beneficiary's disclaimer of ownership of a contingent remainder interest in property transferred by will thirty-three years after the interest was created, though still effective under local law, is not "within a reasonable time" and constitutes an indirect gift to a successor in interest subject to gift tax liability. §25.2511-1. (Sec. 2511, '54 Code.)

Jewett, 455 U.S., Ct. D. 2012, 1982-14 I.R.B. 11.

222.11 Transfers within 3 years of death; intrafamily loan. When an individual transfers cash to the individual's child within 3 years of death in exchange for a term promissory note having a fair market value less than the amount of the transferred cash, the amount includible is the difference between the amount of the loan and the fair market value of the note on the date of the gift. §§20.2033-1, 20.2043-1, 25.2512-8. (Secs. 2033, 2035, 2043, 2512; '54 Code.)

Rev. Rul. 81-286, 1981-2 C.B. 177.

Husband and wife

224.1 Split gifts; deaths of spouses within 3 years of gift. If a decedent's spouse dies after the decedent, and a gift that the decedent consented to split is includible in the spouse's estate, the decedent's estate is entitled to recompute its tax. §25.2513-1. (Secs. 2001, 2035, 2512; '54 Code.)

Rev. Rul. 81-85, 1981-1 C.B. 452.

224.2 Tenants by entirety; transfers within 3 years of death. When the decedent and the decedent's spouse transfer joint tenancy property, as to which there was no election under section 2515(c), within 3 years of the decedent's death, one-half of the value of the property is includible in the decedent's gross estate under section 2035 and the other one-half of the value is reflected in the estate tax computation as an adjusted taxable gift under section 2001. Rev. Rul. 76-348 amplified. §25.2515-1. (Secs. 2001, 2035, 2515; '54 Code.)

Rev. Rul. 81-227, 1981-2 C.B. 168.

Life insurance

228.1 Proceeds; transferred to trust; policy owned by trust beneficiary. An individual purchased and owned a life insurance policy on another's life and designated the trustee of a revocable trust created by the insured as beneficiary. When the insured dies and the policy proceeds become payable to the trustee, the individual, who will receive the income of the trust for life, will have made a completed gift. Further, if the individual does not relinquish the life interest in the trust, the portion of the trust corpus attributable to the individual's contribution of the policy proceeds will be includible in the individual's gross estate at death. §§20.2036-1, 25.2501-2, 25.2511-1, 25.2511-2, 25.2512-9. (Secs. 2036, 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-166, 1981-1 C.B. 477.

228.2 Split-dollar; transfer to trust. An employee, as the owner of an insurance policy held under a "split-dollar" arrangement, transferred the rights in the policy to a trust for the benefit of the employee's child. The value of the gift of the policy is the interpolated terminal reserve of the policy plus the proportionate part of the premiums paid before the date of the gift reduced by the value of the employer's interest in the policy. The employee's payment of the annual premiums after the transfer is also a gift. Further, the value of the life insurance provided by the employer, which is included in the employee's income, is deemed transferred to the trust. §§25.2511-1, 25.2512-6. (Secs. 2511, 2512; '54 Code.)

Rev. Rul. 81-198, 1981-2 C.B. 188.

Property

Interests

238.1 Present; death benefit. An employee entered into an employment contract in which the employer agreed to pay a death benefit of twice the annual salary at the time of death to the employee's surviving spouse, but only if the employee was still employed at the time of death. The death benefit was not funded. The employee made a gift of a present interest in the quarter in which death occurred—the time when the value of the death benefit became ascertainable—and the gift qualifies for the annual exclusion allowable under section 2503(b). §§25.2503-2, 25.2511-1, 25.2512-1. (Secs. 2503, 2511, 2512; '54 Code.)

Rev. Rul. 81-31, 1981-1 C.B. 475.

238.2 Present v. future; power to demand trust corpus. A trust provision that gives a legally competent adult beneficiary the power to demand corpus does not qualify a transfer to the trust as a present interest eligible for the gift tax annual exclusion, if due to the donor's conduct, the beneficiary lacks knowledge of the power and does not have a reasonable opportunity to exercise it before it lapses. §25.2503-3. (Sec. 2503, '54 Code.)

Rev. Rul. 81-7, 1981-1 C.B. 474.

Transfers

250.1 Completed gift; death benefit. An employee entered into an employment contract in which the employer agreed to pay a death benefit of twice the annual salary at the time of death to the employee's surviving spouse, but only if the employee was still employed at the time of death. *The death benefit was not funded. The employee* made a gift of a present interest in the quarter in which death occurred—the time when the value of the death benefit became ascertainable—and the gift qualifies for the annual exclusion allowable under section 2503(b). §§25.2503-2, 25.2511-1, 25.2512-1. (Secs. 2503, 2511, 2512; '54 Code.)

Rev. Rul. 81-31, 1981-1 C.B. 475.

250.2 Life insurance; split-dollar; annual premiums. An employee, as the owner of an insurance policy held under a "split-dollar" arrangement, transferred the rights in the policy to a trust for the benefit of the employee's child. The value of the gift of the policy is the interpolated terminal reserve of the policy plus the proportionate part of the premiums paid before the date of the gift reduced by the value of the employer's interest in the policy. The employee's payment of the annual premiums after the transfer is also a gift. Further, the value of the life insurnce provided by the employer, which is included in the employee's income, is deemed transferred to the trust. §§25.2511-1, 25.2512-6. (Secs. 2511, 2512; '54 Code.)

Rev. Rul. 81-198, 1981-2 C.B. 188.

250.3 Medical expenses paid on behalf of another. The direct payment of unreimbursable medical expenses to the service provider by a donor on behalf of another is not subject to gift tax under section 2503(e), effective for gifts made after De-

cember 31, 1981. Rev. Ruls. 54-343 and 73-612 amplified. §§25.2503-1, 25.2512-8. (Secs. 2503, 2512; '54 Code.)

Rev. Rul. 82-98, 1982-20 I.R.B. 10.

250.4 Pledge of donor honored by third party. An individual made a binding pledge to a charitable organization that was honored by a third party. The individual is considered to have made a gift to the charity at the time the pledge became enforceable, and the third party made a gift to the individual at the time the pledge was honored. The individual is entitled to a charitable gift deduction, but the third party is not. §§25.2511-2, 25.2522(a)-1. (Secs. 2511, 2522; '54 Code.)

Rev. Rul. 81-110, 1981-1 C.B. 479.

250.5 Running of statute of limitations on recovery of loan. An individual who permits the statute of limitations to run on recovery of a loan to a family member made a gift, where the debtor had some financial resources available to repay the loan. §25.2511-2. (Sec. 2511, '54 Code.)

Rev. Rul. 81-264, 1981-2 C.B. 185.

250.6 Stock of DISC and continued contractual relationship. The tax consequences are discussed of (1) a gift by the shareholders of a manufacturing corporation of stock in a newly formed DISC to trusts for the benefit of their children and (2) a continued contractural relationship between their corporations, pursuant to which sales commissions are paid to the DISC in exchange for no significant services. §§25.2501-1, 25.2511-1, 25.2512-8. (Secs. 2501, 2511, 2512; '54 Code.)

Rev. Rul. 81-54, 1981-1 C.B. 476.

250.7 Tax paid by donee; valuation. The gift tax liability assumed by the donee may be deducted from the value of transferred property if payment of tax by donee is a condition of the transfer. The donor's available unified credit is used to reduce the tax in determining the liability. §§25.2511-2, 25.2512-8. (Secs. 2505, 2511, 2512; '54 Code.)

Rev. Rul. 81-223, 1981-2 C.B. 189.

250.8 Trust; contingent remainder interest. A trust beneficiary's disclaimer of ownership of a contingent remainder interest in property transferred by will thirty-three years after the interest was created, though still effective under local law, is not "within a reasonable time" and constitutes an indirect gift to a successor in interest subject to gift tax liability. §25.2511-1. (Sec. 2511, '54 Code.)

Jewett, 455 U.S., Ct. D. 2012, 1982-14 I.R.B. 11.

Trusts

252.1 Power to demand corpus; present v. future interest. A trust provision that gives a legally competent adult beneficiary the power to demand corpus does not qualify a transfer to the trust as a present interest eligible for the gift tax annual exclusion, if due to the donor's conduct, the beneficiary lacks knowledge of the power and does not have a reasonable opportunity to exercise it before it lapses. §25.2503-3. (Sec. 2503, '54 Code.)

Rev. Rul. 81-7, 1981-1 C.B. 474.

Valuation

254.1 Property transferred; additional estate tax. When a qualified heir, described in section 2032A(e), makes a gift of qualified real property to a family member who signs the agreement under section 2032A(d), the value of the gift is not reduced by the additional tax that could be subsequently imposed on the family member under section 2032A(c). §25.2512-1. (Secs. 2032A, 2512; '54 Code.)

Rev. Rul. 81-230, 1981-2. C.B. 186.

254.2 Split-dollar life insurance; transfer to trust. An employee, as the owner of an insurance policy held under a "split-dollar" arrangement, transferred the rights in the policy to a trust for the benefit of the employee's child. The value of the gift of the policy is the interpolated terminal reserve of the policy plus the proportionate part of the premiums paid before the date of the gift reduced by the value of the employer's interest in the policy. The employee's payment of the annual premiums after the transfer is also a gift. Further, the value of the life insurance provided by the employer, which is included in the employee's income, is deemed transferred to the trust. §§25.2511-1, 25.2512-6. (Secs. 2511, 2512; '54 Code.)

Rev. Rul. 81-198, 1981-2 C.B. 188.

254.3 Stock; intrafamily transfers; minority discounts. Simultaneous gifts of one-third of the stock of a family controlled corporation to each of the donor's three children are not valued as minority interests. §25.2512-1. (Sec. 2512, '54 Code.)

Rev. Rul. 81-253, 1981-2 C.B. 187.

254.4 Tax paid by donee. The gift tax liability assumed by the donee may be deducted from the value of transferred property if payment of tax by donee is a condition of the transfer. The donor's available unified credit is used to reduce the tax in determining the liability. §§25.2511-2, 25.2512-8. (Secs. 2505, 2511, 2512; '54 Code.)

Rev. Rul. 81-223, 1981-2 C.B. 189.

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